

RULE PROPOSALS

INTERESTED PERSONS

The Department of Corrections provides notices of rule proposals in the New Jersey Register (N.J.R.), a semi-monthly official publication of the Office of Administrative Law which contains all State agency rule proposals and adoptions. The following paragraph is quoted from the Proposal section of the New Jersey Register:

Interested persons may submit comments, information or arguments concerning any of the rule proposals in this issue until the date indicated in the proposal. Submissions and any inquiries about submissions should be addressed to the agency officer specified for a particular proposal.

The required minimum period for comment concerning a proposal is 30 days. A proposing agency may extend the 30-day comment period to accommodate public hearings or to elicit greater public response to a proposed new rule or amendment. Most notices of proposal include a 60-day comment period, in order to qualify the notice for an exception to the rulemaking calendar requirements of N.J.S.A. 52:14B-3. An extended comment deadline will be noted in the heading of a proposal or appear in a subsequent notice in the Register.

At the close of the period for comments, the proposing agency may thereafter adopt a proposal, without change, or with changes not in violation of the rulemaking procedures at N.J.A.C. 1:30-6.3. The adoption becomes effective upon publication in the Register of a notice of adoption, unless otherwise indicated in the adoption notice. Promulgation in the New Jersey Register establishes a new or amended rule as an official part of the New Jersey Administrative Code.

CORRECTIONS

THE COMMISSIONER

Inmate Visit Privileges

Proposed Amendments: N.J.A.C. 10A:18-1.3 and 6.1 and 10A:31-1.3 and 20.3

Proposed Repeal: N.J.A.C. 10A:31-20.4

Authorized By: Marcus O. Hicks Esq., Acting Commissioner, Department of Corrections.

Authority: N.J.S.A. 30:1B-6 and 30:1B-10.

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

Proposal Number: PRN 2019-051.

Submit written comments by July 5, 2019, to:

Kathleen Cullen
Administrative Rules Unit
Office of the Commissioner
New Jersey Department of Corrections
PO Box 863
Trenton, New Jersey 08625-0863
or via email to ARU@doc.nj.gov.

The agency proposal follows:

Summary

The proposed amendments and repeal address the petition granted by the New Jersey Department of Corrections (Department) as received from the Legal Advocacy Project of Unitarian Universalist FaithAction of New Jersey on behalf of the FaithAction Criminal Justice Reform Taskforce (petitioner) requesting that the Department amend the rules governing inmate contact visitation. The petitioner purported in the petition that there is a possibility that contact visitation will be eliminated in favor of the more profitable video visitation alternative, which would be detrimental to inmate emotional and mental health. The Commissioner confirmed that the petition was duly considered and determined that the Department would grant the petition in a rulemaking proceeding incorporating the intent of the petitioner's suggested amendments (see 51 N.J.R. 112(a)). This rulemaking proposes amendments and a repeal in furtherance of granting the intent of the petition.

Existing N.J.A.C. 10A:18-1.3 does not define contact or non-contact visits; therefore, the Department proposes to add the definitions at N.J.A.C. 10A:18-1.3 to identify the differences between the two types of visits. In addition, the Department proposes to amend the definition of non-contact visit at N.J.A.C. 10A:31-1.3 to match the proposed definition at N.J.A.C. 10A:18-1.3 by adding a sentence to the definition to make clear that such visits do not involve use of non-security cameras, closed circuit TV, and similar technology to effect the visit.

Existing N.J.A.C. 10A:18-6.1 and 10A:31-20.3 do not clearly identify that contact and non-contact visits shall be afforded to inmates whose visitation privileges are not suspended and, as suggested in the petition, the Department proposes to include such specific language as a requirement in State and county correctional facilities.

The Department proposes to amend the headings of N.J.A.C. 10A:18-6.1 and 10A:31-20.3 to "Inmate visit privileges" to call attention to the subject addressed in the proposed new subsections in each rule. The Department proposes to amend N.J.A.C. 10A:18-6.1 and 10A:31-20.3 to include subsections setting forth the following:

- Visitation privileges are afforded to inmates when visitation privileges have not been suspended as a sanction;
- Contact visits will be afforded to inmates that do not present a security risk and non-contact visits will be provided to inmates classified as high risk; and
- Privileges can be suspended as part of a disciplinary sanction(s).

The Department also proposes new N.J.A.C. 10A:18-6.1(e), indicating that written rules for visitation privileges will be available to staff, inmates, and visitors.

In addition to amending the heading of N.J.A.C. 10A:31-20.3, the Department proposes to codify the existing text as subsection (c) and amend the text to include non-contact visits and eliminate the language regarding inmates posing a security risk, as it has been addressed in proposed new subsections (a) and (b). Given the proposed amendment of including non-contact visits in subsection (c), the Department proposes to repeal N.J.A.C. 10A:31-20.4, Non-contact visits.

The Department of Corrections has determined that the comment period for this notice of proposal shall be 60 days; therefore, pursuant to N.J.A.C. 1:30-3.3(a)5, this notice is excepted from the rulemaking calendar requirement.

Social Impact

The proposed amendments and repeal codify current DOC visitation practices. The Department anticipates a positive social impact as a result of the proposed amendments and repeal.

Economic Impact

Additional funding is not necessary to implement the requirements of the proposed

amendments and repeal. The cost of meeting and maintaining the requirements of the proposed amendments is met by the Department through the established budget with funds allocated by the State.

Federal Standards Statement

The proposed amendments and repeal are promulgated under the authority of the rulemaking requirements of the Department of Corrections as established at N.J.S.A. 30:1B-6 and 30:1B-10. The proposed amendments and repeal are not subject to any Federal statutes, requirements, or standards; therefore, a Federal standards analysis is not required.

Jobs Impact

The proposed amendments and repeal will cause neither the generation nor the loss of any jobs.

Agriculture Industry Impact

The proposed amendments and repeal shall have no impact on the agriculture industry.

Regulatory Flexibility Statement

A regulatory flexibility analysis is not required because the proposed amendments and repeal do not impose reporting, recordkeeping, or other compliance requirements on small businesses as defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The proposed amendments and repeal affect the New Jersey Department of Corrections and governmental entities responsible for the enforcement of the rules.

Housing Affordability Impact Analysis

The proposed amendments and repeal shall have no impact on the affordability of housing in New Jersey and will not evoke a change in the average costs associated with housing. The proposed amendments and repeal affect inmates, the New Jersey Department of Corrections, and governmental entities responsible for the enforcement of the rules.

Smart Growth Development Impact Analysis

The proposed amendments and repeal shall have no impact on the achievement of smart growth and will not 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 and repeal affect inmates, the New Jersey Department of Corrections, and governmental entities responsible for the enforcement of the rules.

Racial and Ethnic Community Criminal Justice and Public Safety Impact

The Department of Corrections has evaluated this rulemaking and determined that it will not have an impact on pretrial detention, sentencing, probation, or parole policies concerning adults and juveniles in the State. Accordingly, no further analysis is required.

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

CHAPTER 18

MAIL, VISITS, AND TELEPHONE

SUBCHAPTER 1. GENERAL PROVISIONS

10A:18-1.3 Definitions

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

"Contact visit" means a visit between an inmate and a visitor where there is no barrier, such as, but not limited to, a window or wall between the inmate and visitor.

...

"Non-contact visit" means a visit between an inmate and a visitor where there is a physical barrier, such as, but not limited to, a window or wall between the inmate and the visitor. Non-contact visits shall not involve the use of non-security cameras, closed circuit TV, and similar technology to effect the visit.

...

SUBCHAPTER 6. VISITS

10A:18-6.1 [Notice to inmates] **Inmate visit privileges**

(a)-(d) (No change.)

(e) Written visit regulations shall be available for all staff, inmates, and visitors.

(f) Visitation privileges shall be afforded to inmates who have not had their contact visit privileges suspended as part of a disciplinary sanction(s) as set forth at N.J.A.C. 10A:4-5.1.

1. Contact visit privileges shall be afforded to those inmates who do not represent a substantial security risk.

2. Non-contact visit privileges shall be afforded to those inmates classified as high risk inmates who present a substantial security risk.

(g) All visitation privileges can be suspended as part of a disciplinary sanction as set forth at N.J.A.C. 10A:4-5.1.

CHAPTER 31

ADULT COUNTY CORRECTIONAL FACILITIES

SUBCHAPTER 1. GENERAL PROVISIONS

10A:31-1.3 Definitions

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

...

"Non-contact visit" means a visit between an inmate and a visitor where there is a physical barrier, such as, but not limited to, a window or wall between the inmate and the visitor. Non-contact visits shall not involve the use of non-security cameras, closed circuit TV, and similar technology to effect the visit.

...

SUBCHAPTER 20. VISITS

10A:31-20.3 [Contact] **Inmate visit[s] privileges**

(a) Visitation privileges shall be afforded to inmates who have not had their contact visit privileges suspended as part of a disciplinary sanction(s) as set forth at N.J.A.C. 10A:4-5.1.

1. Contact visit privileges shall be afforded to those inmates who do not represent a substantial security risk.

2. Non-contact visit privileges shall be afforded to those inmates classified as high risk inmates who present a substantial security risk;

(b) All visitation privileges can be suspended as part of a disciplinary sanction as set forth at N.J.A.C. 10A:4-5.1.

(c) An area shall be provided for contact **and non-contact** visits[, for those inmates who do not represent a substantial security risk,] and the areas shall meet the conditions set forth [in] **at** N.J.A.C. 10A:31-3.14(f).

10A:31-20.4 [Non-contact visits] (**Reserved**)

[An area shall be provided for non-contact visits, for those inmates classified as high risk inmates, and the area shall meet the conditions set forth in N.J.A.C. 10A:31-3.14(f).]