

LAW AND PUBLIC SAFETY

JUVENILE JUSTICE COMMISSION

Juvenile Justice Commission

Proposed Readoption with Amendments: N.J.A.C. 13:90

Authorized By: Executive Board of the Juvenile Justice Commission, by the Honorable Anne Milgram, Attorney General and Chair, Kimberly Ricketts, Attorney General's Designee.

Authority: N.J.S.A. 52:17B-169, 52:17B-170, 52:17B-171, 52:17B-176, 52:17B-179 and 52:17B-180.

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

Proposal Number: PRN 2008

Submit written comments on or before March 7, 2008 to:

John Wolff, Legal Specialist,
Office of The Executive Director
New Jersey Juvenile Justice Commission
1001 Spruce Street – Suite 202
Trenton, New Jersey 08638

The agency proposal follows:

Summary

The New Jersey Juvenile Justice Commission (“Commission”) proposes to readopt with amendments N.J.A.C. 13:90, Juvenile Justice Commission. The rules at N.J.A.C.13:90 were first adopted effective July 21, 1997 (see 29 N.J.R. 3261(b)), and were readopted with amendments effective December 16, 2002 (see 34 N.J.R.4471(a)). Pursuant to N.J.S.A. 52:14B-5.1c the rules in this chapter are scheduled to expire on November 19, 2007; in accordance with that statute the submission of this notice of proposal to the Office of Administrative Law extended that expiration date 180 days to May 27, 2008.

N.J.A.C. 13:90 contains organizational provisions for the Commission; it also contains regulations governing both county youth services commissions and the State/Community Partnership Grant Program (the “Partnership Program”), as provided for by N.J.S.A. 52:17B-179 (L.1995, c. 283) and N.J.S.A. 52:17B-180 (L.1995, c. 282).

N.J.A.C. 13:90-1 sets forth general provisions including the chapter’s purpose (N.J.A.C. 13:90-1.1); the organizational structure of the Commission (N.J.A.C. 13:90-1.2); the powers and responsibilities of the Commission’s Executive Board (N.J.A.C. 13:90-1.3), Advisory Council (N.J.A.C. 13:90-1.4) and Executive Director (N.J.A.C. 13:90-1.5); and definitions (N.J.A.C. 13:90-1.6).

N.J.A.C. 13:90-2 and 3 provide for county youth services commissions and implement the Partnership Program. Under these provisions Partnership Program grants are allocated to county youth services commissions to support county-based facilities, sanctions and services for juveniles adjudicated or charged as delinquent and

programs for prevention of juvenile delinquency. Plans and applications for Partnership Program funds are prepared in each county by its youth services commission, which is also responsible for administrative oversight of program activities. Partnership Program activities supported by county youth service commissions have been instrumental in serving a number of essential purposes: They increase the range of court imposed sanctions for juveniles adjudicated delinquent; reduce overcrowding in state juvenile institutions and other facilities, thereby ensuring adequate bed space for serious, violent and repetitive offenders; reduce overcrowding in county detention facilities; provide greater access to community-based sanctions and services for minority and female offenders; and expand programs designed to prevent juvenile delinquency and promote public safety by reducing recidivism.

As authorized by N.J.S.A. 52:17B-180b, the rules in N.J.A.C. 13:90-2 provide guidelines as to membership in and responsibilities of county youth service commissions.

N.J.A.C. 13:90-2.1 states that the purpose of Subchapter 2 is to establish rules that consolidate within a single community planning agency responsibility for planning, implementing, monitoring and evaluating services and programs that make up the juvenile justice service system; N.J.A.C. 13:90-2.2 states that the scope of Subchapter 2 is to establish organizational requirements for county youth services commissions; N.J.A.C. 13:90-2.3 sets forth requirements related to establishment of county youth services commissions and for their receipt of Partnership Program funding from the Commission; N.J.A.C. 13:90-2.4 establishes requirements related to membership on

county youth services commissions; N.J.A.C. 13:90-2.5 requires that each county youth services commission have by-laws that have been reviewed by the Commission to assure compliance with applicable rules; N.J.A.C. 13:90-2.6 provides for the chairperson and committees of county youth services commissions; N.J.A.C. 13:90-2.7 contains requirements as to the frequency of county youth services commission meetings, and requires that such meetings comply with the Open Public Meetings Act, N.J.S.A. 10:4-6, et seq; N.J.A.C.; 13:90-2.8 requires that each county youth services commission adopt a conflict of interest policy certified by county counsel to be in compliance with applicable law; and N.J.A.C. 13:90-2.9 sets out the specific duties and responsibilities of county youth services commissions.

N.J.A.C. 13:90-3 contains the rules that govern the Partnership Program, including provisions for the applications and plans submitted to the Commission by county youth services commissions when applying for Partnership Program grants.

N.J.A.C. 13:90-3.1 states that the purpose of Subchapter 3 is to set forth rules to implement the Partnership Program; 13:90-3.2 provides that the scope of Subchapter 3 is to establish procedures for the application for and the allocation, disbursement, monitoring and evaluation of Partnership Program grants to counties and county youth services commissions; 13:90-3.3 provides a list of definitions of terms used in Subchapter 3; 13:90-3.4 defines participants in the Partnership Program; 13:90-3.5 contains requirements as to the allocation of Partnership Program funds, program funding formula, and permissible administrative costs; 13:90-3.6 sets forth procedural and substantive requirements related to applications for Partnership Program grants,

including the requirement for a periodically updated comprehensive plan for needed sanctions and services for juveniles adjudicated or charged as and delinquency prevention programs; 13:90-3.7 clarifies that no cash or in-kind match is required for Partnership Program funding; 13:90-3.8 provides that Partnership Program funds are to be disbursed pursuant to county-specific schedules issued by the Commission upon approval of a county's application and comprehensive plan, as well as a prohibition against using Partnership Program funds to replace existing funding from other sources; 13:90-3.9 sets forth third-party contracting requirements; 13:90-3.10 contains funds management requirements for the Partnership Program, including requirements for financial reporting and program audit; and 13:90-3.11 requires that the Commission monitor and evaluate activities funded under the Partnership Program.

The Juvenile Justice Commission proposes to make six amendments to N.J.A.C. 13:90:

First, the Commission proposes to amend N.J.A.C. 13:90-1.3, the section that describes the Commission's Executive Board and its membership, to reflect a 2006 amendment to the Commission's enabling legislation.

The Commission is a statutory agency that was established in 1995 under enabling legislation codified at N.J.S.A. 52:17B-169 to 178. N.J.S.A. 52:17B-170b establishes the Commission's Executive Board, and N.J.S.A. 52:17B-170d determines that Board's membership. In 2006, N.J.S.A. 52:17B-170d was amended to substitute the Commissioner of Children and Families for the Commissioner of Human Services as one of the Executive Board's Vice Chairs. The proposed amendment to N.J.A.C.

13:90-1.3 mirrors this change.

Related to this first proposed amendment, the Commission proposes to make two amendments to N.J.A.C. 13:90-2.4, the provision that specifies members of a county youth services commission.

N.J.A.C. 13:90-2.4(b)7 requires that the manager of the county district office of the Division of Youth and Family Services, Department of Human Services be a member of a county youth services commission, and N.J.A.C. 13:90-2.4(e) permits as an ex-officio member, among others, a regional representative of the Department of Human Services. The Commission proposes to substitute Department of Children and Families for Department of Human Services in both these provisions.

Finally, the Commission proposes to make three amendments to N.J.A.C. 13:90 in order to comply with a 2005 amendment to N.J.S.A. 52:17B-180a(2) (see L.2005, c. 164).

Under N.J.S.A. 52:17B-180a(2) a county youth services commission participating in the Partnership Program is required to submit to the Commission comprehensive plans for services and sanctions for juveniles adjudicated or charged as delinquent and programs for prevention of juvenile delinquency. Under the 2005 amendment these comprehensive plans must now be submitted triennially, rather than biennially as previously required. Provisions of N.J.A.C. 13-90-2 and 3 reflecting the periodic submission requirement have not yet been amended to conform to the 2005 amendment. Nonetheless, the Commission and counties have been complying with the triennial requirement since 2005.

The Commission now proposes to amend three provisions in N.J.A.C. 13:90 in order to bring the rules in compliance with the triennial plan submission requirement of N.J.S.A. 52:17B-180a(2), as amended in 2005:

1. N.J.A.C.13:90-2.3(d) recites the requirement of N.J.S.A. 52:17B-180a(2) for the submission of comprehensive plans, and this provision needs to be amended to make the submission requirement triennial;
2. N.J.A.C. 13:90-2.9 sets forth the duties and responsibilities of a county youth services commission, and in N.J.A.C. 13:90-2.9(a)19 requires that a county youth services commission submit annual reports as part of the comprehensive plan and annual updates to the comprehensive plan. This provision also needs to be amended to reflect the triennial plan submission requirement: and
3. N.J.A.C. 13:90-3.6 sets out provisions for the actual application and planning process under the Partnership Program. N.J.A.C. 13:90-3.6 repeats the biennial comprehensive plans requirement, and needs to be amended to reflect the change to triennial submissions.

The Commission proposes to readopt the remaining provisions of the chapter without amendment.

Because the Commission has provided a 60 day comment period on the 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 rules proposed for readoption with amendments will have a positive social impact on counties and local communities in that they support programs designed to protect the public, ensure accountability and foster rehabilitation of juvenile offenders.

Economic Impact

The proposed readoption with amendments will not result in any economic impact because additional funding is not necessary to implement these rules. The cost of meeting and maintaining the requirements established by these rules will be met by the Commission through the budgetary process with monies allocated by the State.

Federal Standards Statement

The proposed readoption with amendments are not subject to any Federal standards or requirements. Therefore, a Federal standards analysis is not required.

Jobs Impact

The New Jersey Juvenile Justice Commission does not anticipate that the rules proposed for readoption with amendments will result in the generation or loss of jobs.

Agriculture Industry Impact

The rules proposed for readoption with amendments will have no impact on the agriculture industry in New Jersey.

Regulatory Flexibility Statement

The rules proposed for readoption with amendments and proposed repeals and new rules do not impose reporting, record-keeping or other compliance requirements on small businesses, as defined under the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. Therefore, a regulatory flexibility analysis is not required. The rules proposed for readoption impact juveniles involved with or at risk of involvement with the Family Court and programs involving Juvenile Family Crisis Intervention Units established pursuant to N.J.S.A 2A:4A-76, and have no effect on small businesses.

Smart Growth Impact

The Juvenile Justice Commission does not anticipate that the rules proposed for readoption with amendments will have any impact on the achievement of smart growth or the implementation of the State Development and Redevelopment Plan.

Full text of the rules proposed for readoption may be found in the New Jersey Administrative Code at N.J.A.C. 13:90.

Full text of the proposed amendments follows (additions indicated in boldface, thus; deletions indicated in brackets, [thus]):

SUBCHAPTER 1. GENERAL PROVISIONS

13:90-1.3 Executive Board

(a) The Executive Board consists of the Attorney General who serves as chair; the Commissioners of the Departments of Corrections and **[Human Services]** Children and Families who serve as vice-chairs; the Commissioner of Education; two persons who sit as chairs of two county youth services commissions; the chair of the Juvenile Justice Commission Advisory Council; and, subject to the approval of the Supreme Court, the Administrative Director of the Courts.

(b) - (c) (No change)

SUBCHAPTER 2. COUNTY YOUTH SERVICES COMMISSION

13:90-2.3 Establishment

(a) – (b) (No change)

(d) In order to qualify for funds from the Partnership Program, each county shall submit [biennially] triennially and obtain Commission approval of a comprehensive plan of sanctions and services for juveniles adjudicated or charged as delinquent and delinquency prevention programs which promotes the goals of the Partnership Program and which satisfies all additional requirements set forth in N.J.S.A. 52:17B-180a(2). The plan shall account for the multiple funding streams, State and Federal, administered by the Commission and allocated to counties for juvenile justice purposes.

(e) (No change)

13:90-2.4 Membership

(a) (No change)

(b) The commission shall be composed of members who have knowledge relevant to the county's population involved in, or at risk of involvement in the juvenile justice system.

The membership of each commission shall include:

1- 6 (No change)

7. The manager of the county district office of the Division of Youth and Family Services, Department of [Human Services] Children and Families;

8 – 18 (No change)

(c) – (d) (No change)

(e) In addition to the members identified in (b) and (d) above, the membership of each commission shall include as an ex-officio member, a Juvenile Justice Commission Court Liaison and may also include as ex-officio members regional representatives of the

Department of [Human Services] Children and Families, and its divisions, and representatives of the Departments of Labor, Education, Health and Senior Services and Community Affairs.

(f) – (g) (No change)

13:90-2.9 Duties and responsibilities

(a) Each commission shall:

1 – 18 (No change)

19. Monitor and evaluate the impact of programs of sanctions and services and delinquency prevention receiving Partnership funds and/or other funds administered by the Juvenile Justice Commission and prepare annually, a written report with relevant documentation to the Commission as part of the [biennial] triennial comprehensive plan and annual update; and

20. (No change)

SUBCHAPTER 3. STATE/COMMUNITY PARTNERSHIP GRANT PROGRAM

13:90-3.6 Application and planning process

(a) (No change)

(b) Each county shall submit [biennially] triennially a comprehensive plan for needed sanctions and services for juveniles adjudicated or charged as delinquent and delinquency prevention programs, or an annual update, as applicable. Each submission

shall include:

1 – 5 (No change)

(c) (No change)