

3. Include the Commissioner-developed insignia on the student’s transcript; and

4. Maintain appropriate records to identify students who have earned the State Seal of Biliteracy.

(e) A district board of education shall not award a State Seal of Biliteracy to any student who does not meet the criteria in (a) above and shall not include the Commissioner-developed insignia on the student’s transcript.

(f) A list of Department-approved, nationally recognized assessments and the Statewide scores necessary for a student to satisfy requirements for the State Seal of Biliteracy shall be set by a resolution approved by the State Board of Education.

1. If an approved assessment, pursuant to (f) above, does not exist for a particular language, a district board of education may administer a Department-approved, locally designed proficiency-based assessment.

(g) The Commissioner shall submit to the Governor and the Legislature by September 1 of each school year a report that includes the number of students awarded the State Seal of Biliteracy in the previous school year, the languages in which the students attained proficiency, and the method(s) by which the students demonstrated proficiency.

CORRECTIONS

(a)

STATE PAROLE BOARD

Parole Board Rules

Division of Parole

Proposed Readoption with Amendments: N.J.A.C. 10A:71

Proposed Amendments: N.J.A.C. 10A:72-1.1, 2.4, 3.6, 6.1, 7.1, 10.1, 10.2, 10.3, 10.4, 10.8, 10.9, 11.2, and 11.3

Proposed New Rules: N.J.A.C. 10A:72-14

Authorized By: New Jersey State Parole Board, James T. Plousis, Chairman.

Authority: N.J.S.A. 30:4-123.48.d, 30:4-123.51.b, and 30:4-123.92.d.

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

Proposal Number: PRN 2017-254.

Submit comments by December 15, 2017, to:

David Thomas
Executive Director
New Jersey State Parole Board
PO Box 862
Trenton, NJ 08625-0862
Fax: 609-292-4493
E-mail: SPB-RulemakingComments@spb.nj.gov

The agency proposal follows:

Summary

The Parole Act of 1979 (Parole Act), N.J.S.A. 30:4-123.45 et seq., established a full-time State Parole Board (Board). The Board is authorized by the Parole Act to promulgate reasonable rules and regulations consistent with the Parole Act as may be necessary for the proper discharge of its responsibility. The Board’s rules are specified in the New Jersey Administrative Code at N.J.A.C. 10A:71 and 72. Pursuant to N.J.S.A. 52:14B-5.1, N.J.A.C. 10A:71 was scheduled to expire on October 27, 2017. As the Board has filed this notice of readoption prior to the expiration date, that date is extended 180 days to April 25, 2018, pursuant to N.J.S.A. 52:14B-5.1.c(2). The Board has reviewed N.J.A.C. 10A:71 and proposes to readopt the chapter with

amendments. The rules pertain to Board organization; records/general administrative provisions; parole release hearings; administrative appeals; suspending or rescinding a parole release date; supervision; revocation of parole; certificate of good conduct; and certificate suspending certain employment, occupational disabilities, or forfeitures. As a result of the review process, the Board proposes various amendments to the current rules. The Board also proposes amendments to N.J.A.C. 10A:72 and proposes new N.J.A.C. 10A:72-14.

The Board proposes to amend N.J.A.C. 10A:72-3.6 that pertains to the polygraph examination process to reflect the holding of a recent Supreme Court decision. On May 8, 2017, the New Jersey Supreme Court in *J.B. v. New Jersey State Parole Board*, 229 N.J. 21, 25 (2017) upheld the validity of the Board’s polygraph program, but added that the “Board’s regulations must be further supplemented to buttress [a parolee’s] Fifth Amendment right against self-incrimination.” In particular, the Supreme Court instructed the Board to issue revised regulations “to clarify that an offender validly invokes the right to remain silent ..., without consequence, if the answer to any question asked throughout any portion of the [polygraph] examination process as defined in N.J.A.C. 10A:72-3.7(a) could form the basis of an independent criminal investigation.” *Id.* at 39.

The Board proposes new N.J.A.C. 10A:72-14 that pertains to the imposition of a special condition prohibiting an offender access to the Internet in the cases of offenders serving a special sentence of community or parole supervision for life as a result of a recent Supreme Court decision. On March 21, 2017, the New Jersey Supreme Court held in *J.I. v. New Jersey State Parole Board*, 228 N.J. 204, 211 (2017) that the “complete denial of access to the Internet implicates a liberty interest, which triggers due process concerns.” Proposed new N.J.A.C. 10A:72-14 codifies the procedures for the imposition of a special condition prohibiting a community or parole supervision for life offender from accessing the Internet, including the criteria, procedure, and review process.

Various proposed amendments provide for minor language corrections and deletion of cross-references of Administrative Code citations. The proposed substantive and procedural amendments and the new rules are as follows:

The proposed amendments to the definition of “Division of Parole” in N.J.A.C. 10A:71-1.1 include replacing the word “parolees” with the word “offenders” to designate those individuals serving a mandatory period of parole supervision; replacing the word “parolees” with the phrase “offenders under parole supervision” to designate those individuals accepted from other states to be supervised in this State; and replacing the outdated title of the compact agreement for the transfer of supervision of offenders between states with the correct title. A proposed amendment provides for the deletion of a reference to the supervision and/or monitoring of inmates and parolees assigned to the Electronic Monitoring Program. The Electronic Monitoring Program does not apply to the monitoring of inmates and reference to parolees being assigned to the Electronic Monitoring Program and is not deemed necessary in the definition.

The proposed amendment to the definition of “juvenile inmate” at N.J.A.C. 10A:71-1.1 deletes reference to a juvenile court committing a person to a term of incarceration pursuant to N.J.S.A. 2A:4-61(h), as that law was repealed on December 31, 1983, and corrects the citation for a term of incarceration imposed by the Family Court from N.J.S.A. 2A:4A-44d(1) to 2A:4A-44.d(1).

The proposed amendment to the definition of “parolee” at N.J.A.C. 10A:71-1.1 clarifies that the term includes a juvenile offender released from an adult correctional facility and is serving a term of post-incarceration; includes an adult offender residing in New Jersey under the terms of the Interstate Compact for Adult Offender Supervision; and an adult offender placed under supervision by reason of Executive Clemency.

The proposed amendment to N.J.A.C. 10A:71-3.33(g) corrects an inaccurate cross-reference.

The proposed amendment to N.J.A.C. 10A:71-3.48(c) adds “domestic partner or civil union partner” to the definition of “nearest relative of a murder/manslaughter victim,” that is consistent with the legislative amendments to N.J.S.A. 52:4B-37, the Crime Victim’s Bill of Rights.

The proposed amendments to N.J.A.C. 10A:71-3.52(q) and 3.56(j)3 and (m)1 correct inaccurate citations. The proposed amendments to N.J.A.C. 10A:71-3.54(o) provide for the reordering of cross-references that include the various conditions of supervision and the elimination of cross-references that do not relate to the conditions of supervision.

The proposed amendment to N.J.A.C. 10A:71-4.1 includes language that is consistent with the language in existing N.J.A.C. 10A:71-4.2 and 4.3, namely, if the Board member has “demonstrated prejudice or bias” in the case.

The proposed amendments to N.J.A.C. 10A:71-4.4 include language that is consistent with the language in existing N.J.A.C. 10A:71-4.2, 4.3, and 4.4, pertaining to personal interest, prejudice, or bias by a decision maker.

The proposed amendments to N.J.A.C. 10A:71-6.4(a)4, 6.11(b)4, and 6.12(d)4 establish that an offender on parole, community supervision for life, or parole supervision for life, respectively, is to notify the assigned parole officer no later than the next business day upon the issuance by the appropriate court of a protective order pursuant to the Sexual Assault Survivor Protection Act of 2015, N.J.S.A. 2C:14-13 et seq.

The proposed amendments to N.J.A.C. 10A:71-6.4(a)5, 6.11(b)5, and 6.12(d)5 specify that an offender on parole, community supervision for life, or parole supervision for life, respectively, is to comply with a protective order issued by the court pursuant to the Sexual Assault Survivor Protection Act of 2015, N.J.S.A. 2C:14-13 et seq.

The proposed amendments to N.J.A.C. 10A:71-6.4(a)6, 6.11(b)6, and 6.12(d)6 specify that an offender on parole, community supervision for life, or parole supervision for life, respectively, is to refrain from behavior that results in the issuance of a protective order the Sexual Assault Survivor Protection Act of 2015, N.J.S.A. 2C:14-13 et seq.

The proposed amendments to N.J.A.C. 10A:71-6.4(b), 6.10(a), 6.11(b)23ii and iii, and 6.12(d)25ii and iii correct inaccurate cross-references.

The proposed amendment to N.J.A.C. 10A:71-6.12(a) specifies that pursuant to N.J.S.A. 2C:43-6.4(a), a court imposing sentence on a person who has been convicted of sexual assault committed on or after January 14, 2004, shall include, in addition to any sentence authorized by the Code of Criminal Justice, N.J.S.A. 2C:1-1 et seq., a special sentence of parole supervision for life. The proposed amendment also specifies that pursuant to N.J.S.A. 2C:43-6.4(a), a court imposing sentence on a person who has been convicted of endangering the welfare of a child pursuant to N.J.S.A. 2C:24-4.b(4) or (5), or an attempt to commit either of these offenses on or after August 14, 2013, may include, upon motion of the prosecutor, in addition to any other sentence authorized by the Code of Criminal Justice, N.J.S.A. 2C:1-1 et seq., a special sentence of parole supervision for life.

The proposed amendment to N.J.A.C. 10A:71-7.13(a) adds that a revocation hearing shall be conducted within 60 days of the date of sentence or commitment where the parolee was sentenced or committed to a county correctional facility, in addition to other already specified facilities.

The proposed amendment to N.J.A.C. 10A:71-7.13(e) clarifies that a request for a postponement of a revocation hearing may be made by a parole officer and also deletes reference to a parolee having to be in custody to request a postponement of a revocation hearing.

The proposed amendment to N.J.A.C. 10A:71-7.15(b) corrects inaccurate cross-references.

The proposed amendments to N.J.A.C. 10A:71-7.17B specify that if parole is revoked by the two-member Board panel and parole release is not certified pursuant to N.J.A.C. 10A:71-7.17B(a)2, an adult inmate shall serve 12 months, a young adult inmate shall serve nine months, and a juvenile inmate shall serve six months if the inmate has violated conditions of parole released to protective orders issued by the appropriate court pursuant to the Sexual Assault Survivor Protection Act of 2015, N.J.S.A. 2C:14-13 et seq., in addition to other named violations.

The proposed amendment to the definition of “parole officer” at N.J.A.C. 10A:72-1.1 specifies that “parole officer” includes the following titles: Chief Investigator Parole & Secured Facilities, Principal Investigator Parole & Secured Facilities, and Senior Investigator Parole & Secured Facilities.

The proposed amendment to the definition of “parole supervision for life” at N.J.A.C. 10A:72-1.1 includes a court-imposed sentence of parole supervision on a person who has been convicted of endangering the welfare of a child pursuant to N.J.S.A. 2C:24-4.b(4) or (5).

The proposed amendments to the definition of “parolee” in N.J.A.C. 10A:72-1.1 clarify that a “parolee” includes any inmate subject to the parole jurisdiction of the Board and who has been released on parole; a juvenile offender released from an adult correctional facility under supervision serving a term of post-incarceration; an offender serving a term of mandatory parole supervision; an offender serving a special sentence of parole supervision for life; an adult offender residing in New Jersey under the terms of the Interstate Compact for Adult Offender Supervision; and an adult offender placed under supervision by reason of Executive Clemency.

The proposed amendment to N.J.A.C. 10A:72-2.4(b)3ii specifies that responses to a violation of a condition of parole may include assignment to, and successful completion of, the Global Positioning System (GPS) monitoring program, wherein GPS monitoring serves to address violations of conditions of supervision.

The proposed amendment to N.J.A.C. 10A:72-3.6(b)5i specifies that the polygraph examination disclosure form shall include that an offender validly invokes the right to remain silence, without consequence, if the answer to any question asked throughout any portion of the polygraph examination process as defined in N.J.A.C. 10A:72-3.7(a) could form the basis of an independent criminal investigation.

The proposed amendments to N.J.A.C. 10A:72-6.1(g) and 7.1(a) correct inaccurate cross-references.

The proposed amendment to N.J.A.C. 10A:72-10.1(b) clarifies that the District Parole Supervisor or designee may effectuate the general condition of curfew or impose a special condition that the offender abide by an assigned curfew, participate in electronic monitoring, or GPS monitoring, by deleting “Assistant District Parole Supervision” as that person would be a “designee.”

The proposed amendment to N.J.A.C. 10A:72-10.2(a)6 clarifies that the District Parole Supervisor or designee shall review the curfew, electronic monitoring, or GPS monitoring period no less than 90 days after imposition to determine if it remains warranted, by deleting “Assistant District Parole Supervision” as that person would be a “designee.”

The proposed amendment to N.J.A.C. 10A:72-10.2(a)7 clarifies that any extension of the curfew, electronic monitoring, or GPS monitoring period beyond 180 days shall require an additional review by the District Parole Supervisor or designee, by deleting “Assistant District Parole Supervision” as that person would be a “designee.”

The proposed amendments to N.J.A.C. 10A:72-10.3(d), (e), and (f) modify the term “rationale” to “justification” to be consistent with the language specified in N.J.A.C. 10A:72-10.3(c).

The proposed amendments to N.J.A.C. 10A:72-10.3(e)4 and 6, (f)4 and 6, and 10.4 establish that if an offender has submitted a written statement or documentation to the District Parole Office, that a copy of the written statement or documentation and an assessment of the written statement or documentation by the District Parole Supervisor or designee shall be forwarded by the District Office to the Board panel for consideration.

The proposed amendments to N.J.A.C. 10A:72-10.3(f)1 and 2 clarify that the determination may be rendered by the District Parole Supervisor “or designee,” which is consistent with the language specified in N.J.A.C. 10A:72-10.

The proposed amendment to N.J.A.C. 10A:72-10.8 establishes that a copy of the hearing report shall be forwarded to the offender, District Parole Supervisor “or designee,” and to the Board panel within seven days of the hearing.

The proposed amendment to N.J.A.C. 10A:72-10.9 establishes that written notice of the decision of the Board panel shall be provided to the offender and the District Parole Supervisor “or designee.”

The proposed amendments to N.J.A.C. 10A:72-11.2(h)3 and (i)4 and 6 establish that if an offender has submitted a written statement or documentation to the District Parole Office, a copy of the written statement or documentation and “an assessment of the written statement or documentation by the District Parole Supervisor or designee” shall be

forwarded by the District Office to the Director, Division of Parole, for consideration.

The proposed amendments to N.J.A.C. 10A:72-11.2(j) establishes that the Director, Division of Parole, or designee shall review the offender's case upon receipt of the written notice of the GPS monitoring referral, the basis for the GPS monitoring referral, the written statement or documentation of the offender and "an assessment of the written statement or documentation by the District Parole Supervisor or designee," if submitted, and any attendant documents.

The proposed amendments to N.J.A.C. 10A:72-11.2(k) establish that upon review of the offender's case, the Director, Division of Parole, or designee shall forward, within five business days, the written notice of the GPS monitoring referral, the basis for the GPS monitoring referral, the written statement "or documentation" of the offender and an "assessment of the written statement or documentation by the District Parole Supervisor or designee," if submitted, any attendant documents, and his or her recommendation as to the appropriateness of GPS monitoring to the Chairperson of the State Parole Board for review.

The proposed amendments to N.J.A.C. 10A:72-11.3(a) establish that the Chairperson shall review the offender's case upon receipt of the written notice of GPS monitoring referral, the basis for the GPS monitoring referral, the written statement or documentation of the offender and "an assessment of the written statement or documentation by the District Parole Supervisor or designee," if submitted, any attendant documents, and the recommendation of the Director, Division of Parole, or designee.

Proposed new N.J.A.C. 10A:72-14.1 identifies those offenders subject to the provision of Subchapter 14, specifies the criteria for the imposition of a special condition prohibiting an offender from accessing the Internet (hereinafter "Internet access condition"), and identifies the components of the Internet access condition.

Proposed new N.J.A.C. 10A:72-14.2 establishes the procedures to be utilized in the imposition of an Internet access condition. The procedures include: notice to the offender of the imposition of the respective condition; the basis for the imposition of the condition; providing the offender with a written informational statement regarding the procedure; the opportunity of the offender to contest the basis for the imposition of the condition; the process to be followed if the offender contests the basis for the imposition of the condition; the effective date of the condition should the offender contest or not contest the basis for the imposition of the condition; the opportunity for the District Parole Supervisor to determine whether exigent circumstances exist for the immediate effectuation of the condition in the case of an offender contesting the basis for the imposition of the condition; and the process to be followed if the offender contests the basis for the imposition of the condition and the District Parole Supervisor has determined that exigent circumstances exist for the immediate effectuation of the condition.

Proposed new N.J.A.C. 10A:72-14.3 provides for a Board panel review of the offender's case, a determination by the Board panel whether to affirm or vacate the imposition of the Internet access condition, and written notice to the offender and District Parole Office as to the determination of the Board panel.

Proposed new N.J.A.C. 10A:72-14.4 provides for an annual review by the Division of Parole of the Internet access condition, the criteria for the review, a determination by the District Parole Supervisor or designee whether to continue or vacate the Internet access condition, that a determination to continue the Internet access condition shall conform with the procedures in N.J.A.C. 10A:72-14.2 and 14.3, and written notice to the offender if the District Parole Supervisor or designee determines to vacate the Internet access condition.

The Board has provided a 60-day comment period on this notice of proposal, therefore, this notice is exempted 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 affect the internal operations of the Board. It is not anticipated that the proposed amendments will have a noticeable impact on the Board's operations or staff.

Offenders on parole status, community supervision for life status, and parole supervision for life status will be affected in that the general conditions of supervision have been amended to include compliance with protective orders established pursuant to the Sexual Assault Survivor Protection Act of 2015, N.J.S.A. 2C:14-13 et seq.

Offenders on parole status will be affected by the proposed amendment to N.J.A.C. 10A:72-2.4 in that GPS monitoring may be imposed in response to violations of the conditions of parole.

Offenders serving a special sentence of community or parole supervision for life will be affected by the proposed amendment to N.J.A.C. 10A:72-3.6 in that the proposed amendment clarifies that an offender validly invokes the right to remain silent, without consequence, if the answer to any question asked throughout any portion of the polygraph examination process could form the basis of an independent criminal investigation.

Certain proposed amendments provide that a District Parole Supervisor or designee is to provide an assessment of a written statement or documentation submitted by a sex offender in opposition to the imposition of certain special conditions. District Parole Supervisors oversee the parole officer staff and ensure that offenders are supervised in accordance with supervision standards. Two District Parole Offices are primarily responsible for the supervision of sex offenders. As these District Parole Supervisors and their designees consult with parole officer staff on the case management of sex offender cases and as the number of sex offenders contesting the imposition of special conditions is limited in number, the proposed amendments should not impact on their present responsibilities.

Offenders serving a special sentence of community or parole supervision for life will be affected by the proposed new rules for the imposition of a special condition prohibiting an offender access to the Internet. The proposed new rules impact the staff of the Division of Parole, certain central office staff of the Board, and Board members as the proposed new rules provide for the formal establishment of a procedure for the imposition of a special condition prohibiting Internet access, the processing of an offender's case for presentation of the matter to a Board panel, the review of the offender's case by a Board panel, and the rendering by a Board panel of a decision in the offender's case.

Economic Impact

The Board does not believe that additional funding is necessary to implement the rules proposed for readoption with amendments or the proposed amendments and new rules. It is anticipated that the cost of implementing the rules proposed for readoption with amendments or the proposed amendments and new rules will be met by the Board through the established budget process with funding presently allocated by the State.

Federal Standards Statement

The rules proposed for readoption with amendments and the proposed amendments and new rules are not proposed under the authority of, or in order to implement, comply with, or participate in any program established under Federal law or under State statute that incorporates or refers to Federal law, standards, or requirements. An analysis of the rules proposed for readoption with amendments or the proposed amendments and new rules pursuant to Executive Order No. 27 (1994), P.L. 1995, c. 65 is, therefore, not required.

Jobs Impact

No jobs are expected to be lost or created as a result of the rules proposed for readoption with amendments or the proposed amendments and new rules.

Agriculture Industry Impact

The rules proposed for readoption with amendments and the proposed amendments and new rules will not have any impact on the agriculture industry in New Jersey.

Regulatory Flexibility Statement

The rules proposed for readoption with amendments and the proposed amendments and new rules 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 rules proposed for readoption with amendments and the proposed amendments and new rules pertain to the Board’s execution of its statutory functions and responsibilities regarding the administration of the parole process and the supervision of offenders subject to the Board’s jurisdiction. A regulatory flexibility analysis is, therefore, not required.

Housing Affordability Impact Analysis

The rules proposed for readoption with amendments and the proposed amendments and new rules pertain to the Board’s execution of its statutory functions and responsibilities regarding the administration of the parole process and the supervision of offenders subject to the Board’s jurisdiction. The rules proposed for readoption with amendments and the proposed amendments and new rules will, therefore, have no impact on the affordability of housing nor will the changes increase or decrease the average cost of housing.

Smart Growth Development Impact Analysis

The rules proposed for readoption with amendments and the proposed amendments and new rules pertain to the Board’s execution of its statutory functions and responsibilities regarding the administration of the parole process and the supervision of offenders subject to the Board’s jurisdiction. The rules proposed for readoption with amendments and the proposed amendments and new rules will, therefore, not evoke a change in housing production in Planning Areas 1 or 2, or within designated centers, under 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. 10A:71.

Full text of the proposed amendments and new rules follow (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

CHAPTER 71
PAROLE

SUBCHAPTER 1. BOARD ORGANIZATION

10A:71-1.1 Definitions

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

...
 “Division of Parole” shall mean the division within the State Parole Board responsible for the supervision of adult and juvenile offenders released on parole by the State Parole Board from an adult correctional facility; the supervision of [parolees] **offenders** who are serving a mandatory period of parole supervision pursuant to N.J.S.A. 2C:43-7.2(c); the supervision of [parolees] **offenders under parole supervision** from other states who have been accepted under the terms of the [Adult and Juvenile Compacts for the] **Interstate Compact for Adult Offender Supervision** [of Parolees and Probationers]; [the supervision and/or monitoring of inmates and parolees assigned to the Electronic Monitoring Program;] the supervision of offenders sentenced to community supervision for life; the supervision of offenders sentenced to parole supervision for life; the supervision of juvenile offenders released from an adult correctional facility for the service of a term of post-incarceration; and the supervision of certain Executive Clemency cases.

...
 “Juvenile inmate” shall mean any person [committed by a juvenile court to a term of incarceration pursuant to N.J.S.A. 2A:4-61(h) or] committed by the Family Court to a term of incarceration pursuant to N.J.S.A. 2A:4A-[44d(1)]**44.d(1)**.

...
 “Parolee” shall mean any inmate who is subject to the parole jurisdiction of the Board and who has been released on parole. “Parolee” shall also include a juvenile offender **released from an adult correctional facility** under supervision [during] **servng** a term of post-incarceration; an adult offender under supervision serving a term of

mandatory parole supervision pursuant to N.J.S.A. 2C:43-7.2(c); [and] an adult offender under supervision serving a special sentence of parole supervision for life; **an adult offender who resides in New Jersey under the terms of Interstate Compact for Adult Offender Supervision; and an adult offender placed under supervision by reason of Executive Clemency.**

...

SUBCHAPTER 3. PAROLE RELEASE HEARINGS

10A:71-3.33 Post-incarceration supervision

(a)-(f) (No change.)

(g) As authorized by N.J.S.A. 2A:4A-44(d)5, a term of post-incarceration supervision may be terminated by the juvenile Board panel. Consideration to terminate the term of post-incarceration shall be in accordance with N.J.A.C. 10A:71-[6.9(h)]**6.9(i)**.

(h)-(i) (No change.)

10A:71-3.48 Victim input

(a)-(b) (No change.)

(c) The term “nearest relative of a murder/ manslaughter victim” shall mean a spouse, parent, grandparent, stepfather, stepmother, child, grandchild, brother, sister, half-brother, half-sister, [and] guardian of a minor, **domestic partner, or civil union partner.**

(d)-(r) (No change.)

10A:71-3.52 Interstate corrections compact and serving time-out-State (s.t.o.s.) cases

(a)-(p) (No change.)

(q) If an annual review hearing is to be scheduled pursuant to N.J.A.C. 10A:71-3.21(f), the following shall occur:

1. The Board shall notify the Department that the offender will be scheduled for an annual review hearing. The Department upon notice being provided shall request the [out-of-state] **out-of-State** or Federal institutional authority to submit to the Board a report concerning the offender. The report shall consist of the information required in N.J.A.C. 10A:71-3.7(e)3 through [7] **6.**

2.-6. (No change.)

(r) (No change.)

10A:71-3.54 Mandatory supervision cases

(a)-(n) (No change.)

(o) If an offender sentenced pursuant to N.J.S.A. 2C:43-7.2 is also sentenced to a special sentence of community supervision for life or parole supervision for life pursuant to N.J.S.A. 2C:43-6.4 and if the offender is released on parole by a Board panel or the Board prior to the expiration of the sentence of incarceration, the conditions of supervision shall include, in addition to those conditions established pursuant to **(e)2 above and** N.J.A.C. 10A:71-6.4(a) and (i) [and (e)2 above], the conditions as specified in N.J.A.C. 10A:71-6.11(b), (c), (e), **and** (f) [and (g)] or 6.12(d), (e), (g), **and** (h) [and (i)], as appropriate.

10A:71-3.56 Parole contract agreements; adult inmates

(a)-(i) (No change.)

(j) The specified reduction(s) in the parole contract agreement shall be granted upon compliance with all of the following conditions:

1.-2. (No change.)

3. The inmate must not have been adjudicated guilty of the commission of any disciplinary infraction pursuant to N.J.A.C. 10A:4-9[.1]; and

4. (No change.)

(k)-(l) (No change.)

(m) The Board may terminate a parole contract agreement based on the following:

1. The inmate has been adjudicated guilty of any disciplinary infraction pursuant to N.J.A.C. 10A:4-9[.1]; or

2. (No change.)

(n)-(q) (No change.)

SUBCHAPTER 4. APPEALS

10A:71-4.1 Appeals by inmates

(a)-(c) (No change.)

(d) Any rescission of parole release date by a Board panel shall be appealable to the Board provided one of the following criteria is met:

1.-2. (No change.)

3. A Board member participating in the deliberations or disposition of the case has a demonstrable personal interest **or demonstrated prejudice or bias** in the case [which] **that** affected the decision.

4. (No change.)

(e)-(j) (No change.)

10A:71-4.4 Review of Division of Parole decisions

(a) A determination by a District Parole Supervisor or his or her designated representative shall be appealable to the Director, Division of Parole, or his or her designated representative.

1. An appeal may be submitted, provided one of the following criteria is met:

i.-ii. (No change.)

iii. The District Parole Supervisor or his or her representative participating in the deliberations or disposition of the case has a demonstrable personal interest or demonstrated prejudice or bias in the case that affected the decision.

[iii.] iv. (No change in text.)

2.-4. (No change.)

(b) The determination of the Director, Division of Parole, or his or her representative rendered pursuant to (a) above shall be appealable to a Board panel.

1. A determination by the Director, Division of Parole, or his or her representative shall be appealable to a Board panel provided one of the following criteria is met:

i.-ii. (No change.)

iii. The District Parole Supervisor or his or her representative participating in the deliberations or disposition of the case has a demonstrable personal interest or demonstrated prejudice or bias in the case that affected the decision.

[iii.] iv. (No change in text.)

2.-4. (No change.)

(c) The decision of the Board panel rendered pursuant to (b) above shall be appealable to the Board.

1. The decision by the Board panel shall be appealable to the Board provided one of the following criteria is met:

i.-ii. (No change.)

iii. The District Parole Supervisor or his or her representative participating in the deliberations or disposition of the case has a demonstrable personal interest or demonstrated prejudice or bias in the case that affected the decision.

[iii.] iv. (No change in text.)

2.-4. (No change.)

SUBCHAPTER 6. SUPERVISION

10A:71-6.4 Conditions of parole

(a) An offender granted parole shall comply with the following general conditions of parole:

1.-3. (No change.)

4. Notify the assigned parole officer no later than the next business day upon the issuance by the appropriate court, pursuant to the Prevention of Domestic Violence Act, N.J.S.A. 2C:25-17 et seq., **the Sexual Assault Survivor Protection Act of 2015, N.J.S.A. 2C:14-13 et seq.**, or the provisions of [a] similar Federal or state statutes, of an order granting emergency relief, a temporary or final restraining **or protective** order, or an order establishing conditions of release or bail in a criminal matter or offense arising out of a domestic violence situation.

5. Comply with any condition established within an order granting emergency relief, a temporary or final restraining **or protective** order, issued by the appropriate court, pursuant to the Prevention of Domestic Violence Act, N.J.S.A. 2C:25-17 et seq., **the Sexual Assault Survivor Protection Act of 2015, N.J.S.A. 2C:14-13 et seq.**, or the provisions of [a] similar Federal or state statutes, or an order establishing conditions of

release or bail in a criminal matter or offense arising out of a domestic violence situation, until the order is dissolved by the appropriate court or until a condition is modified or discharged by the appropriate court.

6. Refrain from behavior that results in the issuance of a final restraining **or protective** order pursuant to the Prevention of Domestic Violence Act, N.J.S.A. 2C:25-17 et seq., **the Sexual Assault Survivor Protection Act of 2015, N.J.S.A. 2C:14-13 et seq.**, or the provisions of [a] similar Federal or state statutes.

7.-19. (No change.)

(b) In the case of an adult or young adult [state] **State** inmate subject to the provisions of N.J.S.A. 2C:43-6.4, the certificate of parole shall contain as general conditions of parole, in addition to those conditions specified in (a) above, the conditions as specified in N.J.A.C. 10A:71-6.11(b), (c), (e), **and** (f) [and (g)] or 6.12(d), (e), (g), **and** (h) [and (i)] as appropriate.

(c)-(m) (No change.)

10A:71-6.10 Transfer of parole supervision to out-of-State jurisdiction

(a) The appropriate Board panel may permit a parolee to reside outside the State pursuant to the provisions of the [interstate compact for adult offender supervision] **Interstate Compact for Adult Offender Supervision** (N.J.S.A. 2A:168-26 et seq.) and the [interstate compact for] **Interstate Compact on juveniles** (N.J.S.A. [9:23B] **9:23-1** et seq.) if the Board panel is satisfied that such change will not result in a substantial likelihood that the parolee will commit an offense, which would be a crime under the laws of this State.

(b)-(h) (No change.)

10A:71-6.11 Community supervision for life

(a) (No change.)

(b) The special sentence of community supervision for life shall commence pursuant to N.J.S.A. 2C:43-6.4.b upon the completion of the sentence imposed pursuant to the Code of Criminal Justice, N.J.S.A. 2C:1-1 et seq. An offender serving a special sentence of community supervision for life shall be supervised by the Division of Parole as if on parole and subject to any special conditions established by the appropriate Board panel and to the following general conditions. The offender shall:

1.-3. (No change.)

4. Notify the assigned parole officer no later than the next business day upon the issuance by the appropriate court, pursuant to the Prevention of Domestic Violence Act, N.J.S.A. 2C:25-17 et seq., **the Sexual Assault Survivor Protection Act of 2015, N.J.S.A. 2C:14-13 et seq.**, or the provisions of [a] similar Federal or state statutes, of an order granting emergency relief, a temporary or final restraining **or protective** order, or an order establishing conditions of release or bail in a criminal matter or offense arising out of a domestic violence situation[.];

5. Comply with any condition established within an order granting emergency relief, a temporary or final restraining **or protective** order, issued by the appropriate court, pursuant to the Prevention of Domestic Violence Act, N.J.S.A. 2C:25-17 et seq., **the Sexual Assault Survivor Protection Act of 2015, N.J.S.A. 2C:14-13 et seq.**, or the provisions of [a] similar Federal or state statutes, or an order establishing conditions of release or bail in a criminal matter or offense arising out of a domestic violence situation, until the order is dissolved by the appropriate court or until a condition is modified or discharged by the appropriate court;

6. Refrain from behavior that results in the issuance of a final restraining **or protective** order pursuant to the Prevention of Domestic Violence Act, N.J.S.A. 2C:25-17 et seq., **the Sexual Assault Survivor Protection Act of 2015, N.J.S.A. 2C:14-13 et seq.**, or the provisions of [a] similar Federal or state statutes;

7.-20. (No change.)

21. Submit to a search conducted by a parole officer, without a warrant, of the offender's person, place of residence, vehicle, or other real or personal property within the offender's control at any time a parole officer has a reasonable, articulable basis to believe that the search will produce contraband or evidence that a condition of supervision has been violated, is being violated, or is about to be violated and permit the confiscation of any contraband;

22. (No change.)

23. Refrain from using any computer and/or device to create any social networking profile or to access any social networking service or chat room in the offender's name or any other name for any reason unless expressly authorized by the District Parole Supervisor.

i. (No change.)

ii. "Internet website or application," as used in [(b)22iv] **(b)23iv** below, means an Internet website or application that allows users, through the creation of Internet web pages or profiles or other similar means, to provide personal information to the public or other users of the Internet website or application, and facilitates online social interactions by offering a mechanism for communication with other users of the Internet website or application. An Internet application shall include any program utilized in conjunction with a mobile or electronic device that permits access to a social networking service.

iii. "Peer-to-peer network," as used in [(b)22iv] **(b)23iv** below, means a connection of computer systems whereby files are shared directly between the systems on a network without the need of a central server.

iv. (No change.)

(c)-(n) (No change.)

10A:71-6.12 Parole supervision for life

(a) Pursuant to N.J.S.A. 2C:43-6.4(a), any enumerated offense committed on or after January 14, 2004, a court imposing sentence on a person who has been convicted of aggravated sexual assault, **sexual assault**, aggravated criminal sexual contact, kidnapping pursuant to N.J.S.A. 2C:13-1(c)2, engaging in sexual conduct [which] **that** would impair or debauch the morals of a child pursuant to N.J.S.A. 2C:24-4(a), endangering the welfare of a child pursuant to N.J.S.A. 2C:24-4(b)3, luring, or an attempt to commit any of these offenses shall include, in addition to any sentence authorized by the Code of Criminal Justice, N.J.S.A. 2C:1-1 et seq., a special sentence of parole supervision for life. **Pursuant to N.J.S.A. 2C:43-6.4.a, a court imposing sentence on a person who has been convicted of endangering the welfare of a child pursuant to N.J.S.A. 2C:24-4.b(4) or (5) or an attempt to commit either of these offenses on or after August 14, 2013, may include, upon motion of the prosecutor, in addition to any other sentence authorized by the Code of Criminal Justice, N.J.S.A. 2C:1-1 et seq., a special sentence of parole supervision for life.**

(b)-(c) (No change.)

(d) An offender sentenced to a special sentence of parole supervision for life shall comply with the following:

1.-3. (No change.)

4. Notify the assigned parole officer no later than the next business day upon the issuance by the appropriate court, pursuant to the Prevention of Domestic Violence Act, N.J.S.A. 2C:25-17 et seq., **the Sexual Assault Survivor Protection Act of 2015, N.J.S.A. 2C:14-13 et seq.**, or the provisions of [a] similar Federal or state statutes, of an order granting emergency relief, a temporary or final restraining **or protective** order, or an order establishing conditions of release or bail in a criminal matter or offense arising out of a domestic violence situation;

5. Comply with any condition established within an order granting emergency relief, a temporary or final restraining **or protective** order, issued by the appropriate court, pursuant to the Prevention of Domestic Violence Act, N.J.S.A. 2C:25-17 et seq., **the Sexual Assault Survivor Protection Act of 2015, N.J.S.A. 2C:14-13 et seq.**, or the provisions of [a] similar Federal or state statutes, or an order establishing conditions of release or bail in a criminal matter or offense arising out of a domestic violence situation, until the order is dissolved by the appropriate court or until a condition is modified or discharged by the appropriate court;

6. Refrain from behavior that results in the issuance of a final restraining **or protective** order pursuant to the Prevention of Domestic Violence Act, N.J.S.A. 2C:25-17 et seq., **the Sexual Assault Survivor Protection Act of 2015, N.J.S.A. 2C:14-13 et seq.**, or the provisions of [a] similar Federal or state statutes;

7.-24. (No change.)

25. Refrain from using any computer and/or device to create any social networking profile or to access any social networking service or chat room in the offender's name or any other name for any reason unless expressly authorized by the District Parole Supervisor.

i. (No change.)

ii. "Internet website or application," as used in [(d)24iv] **(d)25iv** below, means an Internet website or application that allows users, through the creation of Internet web pages or profiles or other similar means, to provide personal information to the public or other users of the Internet website or application, and facilitates online social interactions by offering a mechanism for communication with other users of the Internet website or application. An Internet application shall include any program utilized in conjunction with a mobile or electronic device that permits access to a social networking service.

iii. "Peer-to-peer network," as used in [(d)24iv] **(d)25iv** below, means a connection of computer systems whereby files are shared directly between the systems on a network without the need of a central server.

iv. (No change.)

26. (No change.)

(e)-(v) (No change.)

SUBCHAPTER 7. REVOCATION OF PAROLE

10A:71-7.13 Revocation hearing; scheduling

(a) Except as provided herein, the revocation hearing shall be conducted within 60 days of the date the parolee was taken into custody as a parole violator, or, where the parolee was sentenced or committed to a State correctional, **county correctional**, or juvenile facility, within 60 days of the date of sentence or commitment.

(b)-(d) (No change.)

(e) If the request for postponement by the hearing officer, **parole officer**, or by a parolee [who is not in custody] is due to unanticipated scheduling problems or other emergent circumstances, such postponement shall be granted by the appropriate Board panel and shall not exceed 60 days from the originally scheduled date of hearing.

10A:71-7.15 Status of parolee pending Board panel action

(a) (No change.)

(b) In the case of a parolee who is on parole on a sentence imposed for the offense of murder, aggravated manslaughter, manslaughter, death by vehicular homicide, aggravated assault, kidnapping, aggravated sexual assault, sexual assault, robbery first degree, burglary second degree, terroristic threats, or endangering the welfare of a child, the warrant shall not be withdrawn pursuant to (a) above if the hearing officer determines that, based on the review of the hearing record and the review of the Board's records on the parolee, the parolee would pose a danger to the public safety. In such case, the parolee shall remain in custody pending a review by the appropriate Board panel pursuant to N.J.A.C. 10A:71-7.17, [17.17A] **7.17A**, or [17.17B] **7.17B**.

(c)-(e) (No change.)

10A:71-7.17B Board panel action; schedule of future parole eligibility dates upon revocation of parole for inmates who violated parole on or after December 4, 1995

(a) This section applies to inmates who violated parole on or after December 4, 1995. After consideration of the hearing officer's hearing summary and opinion and any written exceptions thereto, a two-member Board panel shall determine whether to revoke parole pursuant to N.J.A.C. 10A:71-7.12. The Board panel members shall not receive or consider any ex parte communication. The parolee's case shall be decided on the basis of the established record.

1.-2. (No change.)

3. Except as provided in this section, if parole is revoked by the two-member Board panel and parole release is not certified pursuant to (a)2 above, an adult inmate shall serve 12 months, a young adult inmate shall serve nine months, and a juvenile inmate shall serve six months if the inmate has violated one of the following conditions of parole:

i. (No change.)

ii. Failure to notify the assigned parole officer no later than the next business day upon the issuance by the appropriate court, pursuant to the Prevention of Domestic Violence Act, N.J.S.A. 2C:25-17 et seq., **the Sexual Assault Survivor Protection Act of 2015, N.J.S.A. 2C:14-13 et seq.**, or the provisions of [a] similar Federal or state statutes, of an order granting emergency relief, a temporary or final restraining **or protective** order, or an order establishing conditions of release or bail in a criminal matter or offense arising out of a domestic violence situation;

iii. Failure to comply with any condition established within an order granting emergency relief, a temporary or final restraining or protective order, issued by the appropriate court, pursuant to the Prevention of Domestic Violence Act, N.J.S.A. 2C:25-17 et seq., **the Sexual Assault Survivor Protection Act of 2015, N.J.S.A. 2C:14-13 et seq.**, or the provisions of [a] similar Federal or state statutes, or an order establishing conditions of release or bail in a criminal matter or offense arising out of a domestic violence situation, until the order is dissolved by the appropriate court or until a condition is modified or discharged by the appropriate court;

iv. Failure to refrain from behavior[, which] **that** results in the issuance of a final restraining or protective order pursuant to the Prevention of Domestic Violence Act, N.J.S.A. 2C:25-17 et seq., **the Sexual Assault Survivor Protection Act of 2015, N.J.S.A. 2C:14-13 et seq.**, or the provisions of [a] similar Federal or state statutes;

v.-viii. (No change.)

(b)-(r) (No change.)

CHAPTER 72 DIVISION OF PAROLE

SUBCHAPTER 1. GENERAL PROVISIONS

10A:72-1.1 Definitions

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

...
“Parole officer” means persons with the following Division of Parole titles that shall be sworn as peace officers:

1.-5. (No change.)

6. Senior Parole Officer; [and]

7. Parole Officer Recruit[.];

8. Chief Investigator Parole & Secured Facilities;

9. Principal Investigator Parole & Secured Facilities; and

10. Senior Investigator Parole & Secured Facilities.

“Parole supervision for life” as established in N.J.S.A. 2C:43-6.4, means a court imposed sentence of parole supervision on a person who has been convicted of aggravated sexual assault, sexual assault, aggravated criminal sexual contact, kidnapping pursuant to N.J.S.A. 2C:13-1.c(2), endangering the welfare of a child by engaging in sexual conduct [which] **that** would impair or debauch the morals of the child pursuant to N.J.S.A. 2C:24-4.a, endangering the welfare of a child pursuant to N.J.S.A. 2C:24-4.b(3), luring, **endangering the welfare of a child pursuant to N.J.S.A. 2C:24-4.b(4) or (5)**, or an attempt to commit any such offense. Rules regarding parole supervision for life are established at N.J.A.C. 10A:71-6.12.

“Parolee” means any [person] **inmate** who is subject to the parole jurisdiction of the [New Jersey State Parole] Board and **who** has been released on parole[; any person released to], **“Parolee” shall also include a juvenile offender released from an adult correctional facility under supervision serving a term of post-incarceration; an adult offender under supervision serving a term of mandatory parole supervision pursuant to N.J.S.A. 2C:43-7.2(c); [any person placed under supervision by reason of Executive Clemency; or any person released from another state correctional facility who resides in New Jersey under the terms of the Adult and Juvenile Compacts for the Supervision of Parolee and Probationers] an adult offender under supervision serving a special sentence of parole supervision for life; an adult offender who resides in New Jersey under the terms of Interstate Compact for Adult Offender Supervision; and an adult offender placed under supervision by reason of Executive Clemency.**

...

SUBCHAPTER 2. COMMUNITY PLAN AND SUPERVISION

10A:72-2.4 Violations of parole

(a) (No change.)

(b) The response to a violation of a condition of parole shall be proportional to the risk to the community posed by the parolee, the severity of the violation, and the potential for long-term positive outcomes. Responses may include, but not be limited to, the following:

1.-2. (No change.)

3. The imposition of a special condition requiring:

i. (No change.)

ii. Assignment to and successful completion of the electronic monitoring program or **Global Positioning System (GPS) monitoring program**, wherein electronic monitoring or **GPS monitoring** serves to address violations of conditions of supervision;

iii.-iv. (No change.)

(c)-(d) (No change.)

SUBCHAPTER 3. POLYGRAPH EXAMINATION OF SEX OFFENDERS

10A:72-3.6 Polygraph examination disclosure form

(a) (No change.)

(b) The disclosure form shall include, but not be limited to:

1.-4. (No change.)

5. That the valid exercise of the right to remain silent does not constitute failure to fully participate and/or cooperate with the examination;

i. An offender validly invokes the right to remain silent, without consequence, if the answer to any question asked throughout any portion of the polygraph examination process as defined in N.J.A.C. 10A:72-3.7(a) could form the basis of an independent criminal investigation.

6.-9. (No change.)

SUBCHAPTER 6. SEARCH AND URINE MONITORING OF PAROLEES

10A:72-6.1 Search of parolees; when authorized; scope

(a)-(f) (No change.)

(g) A parolee shall be searched prior to being transported pursuant to N.J.A.C. 10A:72-8.1 to [8.5]**8.4**.

SUBCHAPTER 7. CONTRABAND AND DISPOSITION OF CONTRABAND

10A:72-7.1 Procedures for handling contraband upon discovery

(a) Whenever an item, article, or material is determined to be contraband pursuant to N.J.A.C. 10A:72-[1.3]**1.1**, the contraband shall be immediately seized.

(b)-(d) (No change.)

SUBCHAPTER 10. CURFEW, ELECTRONIC MONITORING, AND GLOBAL POSITIONING SYSTEM (GPS) MONITORING

10A:72-10.1 Criteria

(a) (No change.)

(b) The District Parole Supervisor[, Assistant District Parole Supervisor,] or designee [of the District Parole Supervisor,] may effectuate the general condition of curfew or impose a special condition that the offender abide by an assigned curfew, participate in electronic monitoring, or GPS monitoring if:

1.-2. (No change.)

10A:72-10.2 Specifications

(a) The curfew, electronic monitoring, or GPS monitoring period established pursuant to N.J.A.C. 10A:72-10.1(b) shall comply with the following specifications:

1.-5. (No change.)

6. A District Parole Supervisor[, Assistant District Parole Supervisor,] or designee [of the District Parole Supervisor,] shall review the curfew, electronic monitoring, or GPS monitoring period no less than 90 days after imposition to determine if it remains warranted; and

7. Any extension of the curfew, electronic monitoring, or GPS monitoring period beyond 180 days shall require an additional review by the District Parole Supervisor[, Assistant District Parole Supervisor,] or designee [of the District Parole Supervisor,] and shall conform with the procedures in N.J.A.C. 10A:72-10.3.

10A:72-10.3 Procedure

(a)-(c) (No change.)

(d) If the offender does not [deny the allegations,] contest the **allegations**, the conclusions to be drawn from the allegations, or the [rationale] **justification** supporting the **imposition of the curfew**, electronic monitoring, or GPS monitoring condition, the offender shall be advised that the curfew, electronic monitoring, or GPS monitoring condition shall be effectuated immediately.

(e) If the offender contests the allegations, the conclusions to be drawn from the allegations, or the [rationale] **justification** supporting the **imposition of the curfew**, electronic monitoring, or GPS monitoring condition and exigent circumstances do not exist as to require the immediate effectuation of the curfew, electronic monitoring, or GPS monitoring condition, the following procedures shall apply:

1.-3. (No change.)

4. The District Parole Office shall forward a copy of the written notice of the imposition of the curfew, electronic monitoring, or GPS monitoring condition to a [board] **Board** panel. If the offender contests the imposition of the curfew, electronic monitoring, or GPS monitoring condition and has submitted a written statement or documentation to the District Parole Office, a copy of the written statement [and] **or documentation and an assessment of the written statement or documentation by the District Parole Supervisor or designee** shall be forwarded by the District Parole Office to the [board] **Board** panel for consideration;

5. (No change.)

6. If the District Parole Office receives a written statement or documentation from an offender after the expiration of the [five business days] **five-business-day** time period, the District Parole Office shall forward a copy of the written statement or documentation **and an assessment of the written statement or documentation by the District Parole Supervisor or designee** to the [board] **Board** panel for consideration.

(f) If the offender contests the allegations, the conclusions to be drawn from the allegations or the [rationale] **justification** supporting the **imposition of the curfew**, electronic monitoring, or GPS monitoring condition and the District Parole Office believes that exigent circumstances do exist as to require the immediate effectuation of the curfew, electronic monitoring, or GPS monitoring condition, the following procedures shall apply:

1. The District Parole Supervisor **or designee** shall review the offender's case within 24 hours of the determination to impose the curfew, electronic monitoring, or GPS monitoring condition to determine whether exigent circumstances do exist as to require immediate effectuation of the curfew, electronic monitoring, or GPS monitoring condition and shall verbally advise the offender and the assigned parole officer of his or her determination. If the District Parole Supervisor [shall] **or designee** determines that exigent circumstances exist, the District Parole Supervisor **or designee** shall also provide written notice to the offender as to the basis for the determination;

2. If the District Parole Supervisor **or designee** determines that exigent circumstances do exist, the curfew, electronic monitoring, or GPS monitoring condition shall be effectuated immediately;

3. (No change.)

4. The District Parole Office shall forward a copy of the written notice of the imposition of the curfew, electronic monitoring, or GPS monitoring condition and, if exigent circumstances were found to exist by the District Parole Supervisor **or designee**, a copy of the written notice of the basis for the determination of the existence of exigent circumstances to a [board] **Board** panel. If the offender contests the imposition of the curfew, electronic monitoring, or GPS monitoring condition and has submitted a written statement or documentation to the District Parole Office, a copy of the written statement or documentation **and an assessment of the written statement or documentation by the District Parole Supervisor or designee** shall be forwarded by the District Parole Office to the [board] **Board** panel for consideration;

5. (No change.)

6. If the District Parole Office receives a written statement or documentation from an offender after the expiration of the [five business days] **five-business-day** time period, the District Parole Office shall

forward a copy of the written statement or documentation **and an assessment of the written statement or documentation by the District Parole Supervisor or designee** to the [board] **Board** panel for consideration.

10A:72-10.4 Board panel review

(a) Upon receipt of the written notice of the imposition of the curfew, electronic monitoring, or GPS monitoring condition, the basis for the imposition of the curfew, electronic monitoring, or GPS monitoring condition, the written statement **or documentation** of the offender **and an assessment of the written statement or documentation by the District Parole Supervisor or designee**, if submitted, and any attendant documents, a [board] **Board** panel shall review the offender's case.

(b)-(f) (No change.)

10A:72-10.8 Hearing; record

(a)-(c) (No change.)

(d) A copy of the hearing report shall be forwarded to the offender, District Parole Supervisor **or designee**, and to the [board] **Board** panel within seven days of the hearing.

(e) (No change.)

10A:72-10.9 Hearing; notice of decision

Within 21 days of the hearing, the [board] **Board** panel shall render a decision. Written notice of the decision shall be provided to the offender and the District Parole Supervisor **or designee**.

SUBCHAPTER 11. SEX OFFENDER GLOBAL POSITIONING SYSTEM (GPS) MONITORING PROGRAM

10A:72-11.2 Global positioning system (GPS) monitoring referral procedure

(a)-(g) (No change.)

(h) If the offender contests the basis supporting the GPS monitoring referral and exigent circumstances do not exist as to require immediate GPS monitoring, the following procedures shall apply:

1.-2. (No change.)

3. The District Parole Office shall forward a copy of the written notice of the GPS monitoring referral to the Director, Division of Parole. If the offender contests the GPS monitoring referral and has submitted a written statement or documentation to the District Parole Office, a copy of the written statement [and] **or documentation and an assessment of the written statement or documentation by the District Parole Supervisor or designee** shall be forwarded by the District Parole Office to the Director, Division of Parole, for consideration.

4.-5. (No change.)

(i) If the offender contests the basis supporting the GPS monitoring referral and the District Parole Office believes that exigent circumstances do exist as to require immediate GPS monitoring, the following procedures shall apply:

1. The Supervising Parole [Office] **Officer** shall review the offender's case within 24 hours of the determination to immediately forward the GPS monitoring referral to determine whether exigent circumstances do exist as to require immediate forwarding of the GPS monitoring referral and shall verbally advise the District Parole Office of his or her determination. If the Supervising Parole Officer determines that exigent circumstances exist, the District Parole Office shall provide written notice to the offender as to the basis for the determination.

2.-3. (No change.)

4. The District Parole Office shall forward a copy of the written notice of the GPS monitoring referral and, if exigent circumstances were found to exist by the Supervising Parole Officer, a copy of the written notice of the basis for the determination of the existence of exigent circumstances to the Director, Division of Parole. If the offender contests the GPS monitoring referral and has submitted a written statement or documentation to the District Parole Office, a copy of the written statement or documentation **and an assessment of the written statement or documentation by the District Parole Supervisor or designee** shall be forwarded by the District Parole Office to the Director, Division of Parole, for consideration.

5. (No change.)

6. If the District Parole Office receives a written statement or documentation from an offender after the expiration of the five-business-day time period, the District Parole Office shall forward a copy of the written statement or documentation **and an assessment of the written statement or documentation by the District Parole Supervisor or designee** to the Director, Division of Parole, for consideration.

(j) Upon receipt of the written notice of the GPS monitoring referral, the basis for the GPS monitoring referral, the written statement or documentation of the offender **and an assessment of the written statement or documentation by the District Parole Supervisor or designee**, if submitted, and any attendant documents, the Director, Division of Parole, or designee shall review the offender's case.

(k) Upon review of the offender's case, the Director, Division of Parole, or designee shall forward, within five business days, the written notice of the GPS monitoring referral, the basis for the GPS monitoring referral, the written statement or documentation of the offender **and an assessment of the written statement or documentation by the District Parole Supervisor or designee**, if submitted, any attendant documents, and his or her recommendation as to the appropriateness of GPS monitoring to the Chairperson of the State Parole Board for review.

10A:72-11.3 Chairperson of the State Parole Board (Chairperson) review

(a) Upon receipt of the written notice of GPS monitoring referral, the basis for the GPS monitoring referral, the written statement or documentation of the offender **and an assessment of the written statement or documentation by the District Parole Supervisor or designee**, if submitted, any attendant documents, and the recommendation of the Director, Division of Parole, or designee, the Chairperson shall review the offender's case.

(b)-(c) (No change.)

SUBCHAPTER 14. INTERNET ACCESS CONDITION

10A:72-14.1 Criteria

(a) This subchapter applies to the imposition of a special condition prohibiting an offender access to the Internet (Internet access condition) in the cases of offenders serving a special sentence of community or parole supervision for life.

(b) The District Parole Supervisor or designee may impose a special condition prohibiting an offender from accessing the Internet if:

1. There is a specific and articulable reason and a clear purpose for the imposition of the Internet access condition; and
2. The imposition of the Internet access condition will act as an aid to the offender's re-entry effort, will promote the rehabilitation of the offender, is deemed necessary to protect the public, or will reduce recidivism by the offender.

(c) The Internet access condition shall include, but not be limited to, the following:

1. The offender is to refrain from the possession and/or utilization of any computer and/or device that permits access to the Internet unless specifically authorized by the District Parole Supervisor or designee. If the District Parole Supervisor or designee permits use of a computer and/or device that is capable of accessing the Internet, the offender shall be subject to the following restrictions and conditions:

i. The offender is to refrain from accessing the Internet from any computer and/or device at any time or for any reason unless authorized by the District Parole Supervisor or designee;

ii. The offender is prohibited from possessing or using any data encryption techniques and/or software programs that conceal, mask, alter, eliminate, and/or destroy information, and/or data from a computer and/or device;

iii. The offender agrees to install on the computer and/or device, at his or her expense, one or more hardware or software system(s) to monitor computer and/or device use if such hardware or software system(s) is(are) determined to be necessary by the District Parole Supervisor or designee;

iv. The offender agrees to permit the monitoring of the computer and/or device activity by a parole officer and/or computer/device specialist through the use of electronic means;

v. The offender is subject to periodic unannounced examinations of the computer and/or device by a parole officer or designated computer/device specialist, including the retrieval and copying of all data from the computer and/or device and any internal or external peripherals and removal of such equipment to conduct a more thorough inspection; and

vi. The offender is to disclose all passwords used by him or her to access any data, information, image, program, signal, or file on the computer/device.

10A:72-14.2 Procedure

(a) Upon a determination by the District Parole Supervisor or designee to impose a special condition prohibiting an offender access to the Internet (Internet access condition), the offender shall be served in person with written notice of the imposition of the Internet access condition. The written notice shall include the basis for the imposition of the Internet access condition.

(b) The offender shall be provided with a written informational statement that details the procedure for the imposition of the Internet access condition.

(c) The offender shall indicate in writing whether he or she contests the allegations, the conclusions to be drawn from the allegations, or the justification supporting the imposition of the Internet access condition.

(d) If the offender does not contest the allegations, the conclusions to be drawn from the allegations, or the justification supporting the imposition of the Internet access condition, the offender shall be advised that the Internet access condition shall be effectuated immediately.

(e) If the offender contests the allegations, the conclusions to be drawn from the allegations, or the justification supporting the imposition of the Internet access condition and exigent circumstances do not exist as to require the immediate effectuation of the Internet access condition, the following procedures shall apply:

1. The offender shall be advised that he or she will have 10 business days to submit a written statement or documentation to the District Parole Office to be considered before the Internet access condition becomes effective;

2. The offender shall be advised that if the offender fails to submit a written statement or documentation within 10 business days, the Internet access condition shall become effective immediately upon the expiration of the 10 business days;

3. If the offender submits a written statement or documentation within 10 business days, the Internet access condition shall not be effectuated until such time as a Board panel authorizes the effectuation of the Internet access condition;

4. The District Parole Office shall forward a copy of the written notice of the imposition of the Internet access condition to a Board panel. If the offender contests the imposition of the Internet access condition and has submitted a written statement or documentation to the District Parole Office, a copy of the written statement or documentation and an assessment of the written statement or documentation by the District Parole Supervisor or designee shall be forwarded by the District Parole Office to the Board panel for consideration;

5. An offender shall not be precluded from submitting a written statement or documentation to the District Parole Office after the expiration of the 10-business-day time period. However, the failure to comply with the 10-business-day time period shall result in the immediate effectuation of the Internet access condition; and

6. If the District Parole Office receives a written statement or documentation from an offender after the expiration of the 10-business-day time period, the District Parole Office shall forward a copy of the written statement or documentation and an assessment of the written statement or documentation by the District Parole Supervisor or designee to the Board panel for consideration.

(f) If the offender contests the allegations, the conclusions to be drawn from the allegations, or the justification supporting the imposition of the Internet access condition and the District Parole Office believes that exigent circumstances do exist as to require the immediate effectuation of the Internet access condition, the following procedures shall apply:

1. The District Parole Supervisor or designee shall review the offender's case within 24 hours of the determination to impose the Internet access condition to determine whether exigent circumstances do exist as to require immediate effectuation of the Internet access condition and shall verbally advise the offender and the assigned parole officer of his or her determination. If the District Parole Supervisor or designee determines that exigent circumstances exist, the District Parole Supervisor or designee shall also provide written notice to the offender as to the basis for the determination;

2. If the District Parole Supervisor or designee determines that exigent circumstances do exist, the Internet access condition shall be effectuated immediately;

3. The offender shall be advised that he or she will have 10 business days to submit a written statement or documentation to be considered;

4. The District Parole Office shall forward a copy of the written notice of the Internet access condition and, if exigent circumstances were found to exist by the District Parole Supervisor or designee, a copy of the written notice of the basis for the determination of the existence of exigent circumstances to a Board panel. If the offender contests the imposition of the Internet access condition and has submitted a written statement or documentation to the District Parole Office, a copy of the written statement or documentation and an assessment of the written statement or documentation by the District Parole Supervisor or designee shall be forwarded by the District Parole Office to the Board panel for consideration;

5. An offender shall not be precluded from submitting a written statement or documentation to the District Parole Officer after the expiration of the 10-business-day time period; and

6. If the District Parole Office receives a written statement or documentation from an offender after the expiration of the 10-business-day time period, the District Parole Office shall forward a copy of the written statement or documentation and an assessment of the written statement or documentation by the District Parole Supervisor or designee to the Board panel for consideration.

10A:72-14.3 Board panel review

(a) Upon receipt of the written notice of a special condition prohibiting an offender access to the Internet (Internet access condition), the basis for the imposition of the Internet access condition, the written statement of the offender, if submitted, and any attendant documents, a Board panel shall review the offender's case.

(b) The Board panel shall determine whether to affirm or vacate the imposition of the Internet access condition.

(c) The offender and District Parole Office shall be notified in writing of the Board panel's decision.

10A:72-14.4 Division of Parole review

(a) A District Parole Supervisor or designee shall review a special condition prohibiting an offender access to the Internet (Internet access condition) no less than one year from the effective date of the Internet access condition and, if necessary, on an annual basis thereafter to determine if it remains warranted.

(b) The District Parole Supervisor or designee shall review the Internet access condition utilizing the criteria specified in (c) below.

(c) The review of the Internet access condition shall include, but not be limited to, an assessment as to whether:

1. There is a reasonable basis to preclude access to the Internet;
2. Internet use is consistent with the continued rehabilitation of the offender and will not compromise public safety;
3. The offender is in compliance with the conditions of supervision;

4. The offender has met the goals listed in his or her Case Plan Agreement and is progressing in a pro-social manner; and

5. The offender's treatment provider, if the offender is presently participating in counseling, is of the opinion that Internet access will promote the rehabilitation of the offender and assist the offender's re-entry efforts.

(d) Upon completion of the review of the Internet access condition, the District Parole Supervisor or designee shall determine whether to continue or vacate the Internet access condition.

(e) If the District Parole Supervisor or designee determines to continue the Internet access condition, the continuation shall conform with the procedures in N.J.A.C. 10A:72-14.2 and 14.3. However, if the offender contests the justification supporting the extension of the Internet access condition, the Internet access condition shall remain in effect until the Board panel has reviewed the offender's case and determined whether to continue or vacate the extension of the Internet access condition.

(f) If the District Parole Supervisor or designee determines to vacate the Internet access condition, the District Parole Supervisor or designee shall notify the offender in writing of the decision. The decision shall also be recorded in the chronological supervision report.

LABOR AND WORKFORCE DEVELOPMENT

(a)

**DIVISION OF PUBLIC SAFETY AND OCCUPATIONAL SAFETY AND HEALTH
Boilers, Pressure Vessels, and Refrigeration
Proposed Readoption with Amendments: N.J.A.C. 12:90**

Authorized By: Aaron R. Fichtner, Ph.D., Acting Commissioner, Department of Labor and Workforce Development.

Authority: N.J.S.A. 34:1-20, 34:1-47, 34:1A-3, and 34:7-18; and Reorganization Plan 002-2002.

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

Proposal Number: PRN 2017-256.

A **public hearing** on the proposed readoption with amendments will be held on the following date at the following location:

Thursday, November 16, 2017

10:00 A.M. to 12:00 Noon

NJ Department of Labor and Workforce Development
John Fitch Plaza
3rd Floor, Large Conference Room
Trenton, New Jersey

Please call the Office of Legal and Regulatory Services at (609) 292-2789 if you wish to be included on the list of speakers.

Submit written comments by December 15, 2017, to:

David Fish, Executive Director
Legal and Regulatory Services
NJ Department of Labor and Workforce Development
PO Box 110
13th Floor
Trenton, New Jersey 08625-0110
E-mail: david.fish@dol.nj.gov.

The agency proposal follows:

Summary

Pursuant to N.J.S.A. 52:14B-5.1, N.J.A.C. 12:90, Boilers, Pressure Vessels, and Refrigeration, was scheduled to expire on October 1, 2017. In accordance with N.J.S.A. 52:14B-5.1.c(2), by submission of this notice of proposal to the Office of Administrative Law prior to the expiration date, the expiration date is extended 180 days to March 30,