

authority has already removed, or has appropriate authority to remove, the student from [his or her] **the student's** home, as specified [in] at N.J.S.A. 9:6-8.27 through 8.30; and

vi. The transfer to another school of a student who has been removed from [his or her] **the student's** home by designated child welfare authorities for proper care and protection pursuant to N.J.S.A. 9:6-8.28 and 8.29;

6.-10. (No change.)

(b) (No change.)

CORRECTIONS

(a)

STATE PAROLE BOARD

Parole Board Rules

Division of Parole Rules

Proposed Readoption with Amendments: N.J.A.C. 10A:72

Proposed Repeals and New Rules: N.J.A.C. 10A:71-3.22, 7.6, 7.10, and 7.11; and 10A:72-4.11 and 5.9

Proposed Amendments: N.J.A.C. 10A:71-1.1, 1.2, 1.4, 1.5, 1.10, 2.10, 3.1, 3.2, 3.3, 3.5, 3.7, 3.8, 3.12, 3.15, 3.16, 3.21, 3.48, 3.49, 3.50, 3.54, 4.1, 5.1, 5.2, 5.7, 5.8, 6.1, 6.3, 6.4, 6.5, 6.6, 6.9, 6.10, 6.11, 6.12, 7.2, 7.3, 7.7, 7.9, 7.12, 7.13, 7.15, 7.16, 7.17B, 7.18, and 7.19A

Proposed New Rules: N.J.A.C. 10A:71-2.12 and 6.14; and 10A:72-15

Proposed Repeals: N.J.A.C. 10A:71-3.23 through 3.33, 3.57, 7.17, and 7.17A

Authorized By: New Jersey State Parole Board, Samuel J. Plumeri, Jr., Chairman.

Authority: N.J.S.A. 30:4-123.48.d.

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

Proposal Number: PRN 2021-015.

Submit comments by April 17, 2021, to:

David Wolfsgruber
Executive Director
New Jersey State Parole Board
PO Box 862
Trenton, NJ 08625-0862
Fax: 609-292-4493
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The agency proposal follows:

Summary

Pursuant to N.J.S.A. 52:14B-5.1, the rules pertaining to the Division of Parole were scheduled to expire on December 5, 2020. This date was extended pursuant to Executive Order No. 127 (2020) until 90 days after the last day of the public health emergency declared in Executive Order No. 103 (2020) (as extended). The State Parole Board (Board) has reviewed N.J.A.C. 10A:72 and determined to readopt it with amendments and new rules. In addition to updating administrative provisions, the Board is incorporating the provisions of P.L. 2019, c. 363, and P.L. 2020, c. 50, which together moved parole functions concerning juveniles to the Juvenile Justice Commission. As the Board has timely filed this notice of re-adoption, the expiration date is extended 180 days to June 3, 2021, pursuant to N.J.S.A. 52:14B-5.1.c(2).

The Parole Act of 1979, N.J.S.A. 30:4-123.45 et seq., which became effective April 21, 1980, created a full-time Board. The Board determines if, when, and under what conditions offenders subject to its jurisdiction may be released on parole or returned to an institution from parole

following violations of the conditions of supervision. The Board's Division of Parole supervises offenders subject to the Board's jurisdiction and monitors offenders' compliance with the conditions of supervision. The rules at N.J.A.C. 10A:72 pertain to general administrative provisions of the Division of Parole and include such matters as community plan and supervision; use of firearms and use of force while on duty; use of personal firearms and use of force while off-duty; search and monitoring of parolees; contraband and disposition of contraband; transportation of parolees; certain parolees residing with or having unsupervised contact with minors; establishing certain conditions of supervision; and parolees traveling outside of the State.

On January 20, 2020, P.L. 2019, c. 363 was enacted. This legislation primarily incorporated certain principles into the Code of Juvenile Justice, P.L. 1982, c. 77 (N.J.S.A. 2A:4A-20 et seq.). The legislation imposed restrictions on the incarceration of juveniles; vested parole decision-making concerning juveniles in a panel comprised of at least two members of the Juvenile Justice Commission and a member of the Board; made discretionary the post-incarceration period of supervision currently imposed on juveniles; eliminated certain fines imposed on juveniles; and imposed transparency requirements on the Juvenile Justice Commission. The legislation became effective November 1, 2020. On July 1, 2020, P.L. 2020, c. 50 was enacted. The legislation accelerated the implementation of certain provisions of P.L. 2019, c. 363, one of which related to the imposition of a discretionary term of post-incarceration and the non-return of certain juvenile offenders to custody for technical violations. This legislation became effective July 1, 2020, and expired on October 31, 2020.

P.L. 2019, c. 363 also made numerous amendments to the provisions of P.L. 1979, c. 441, the Parole Act of 1979, N.J.S.A. 30:4-123.45 et seq. The amendments removed all reference to juvenile offenders; all language associated with juvenile offenders; reference to the Juvenile Justice Commission; and transferred parole decision-making authority for juvenile offenders from the Board to the Juvenile Justice Commission. The legislation did, however, provide that a Board member designated by the Chairperson of the Board would be a member of the panel established in the Juvenile Justice Commission responsible for making determinations regarding parole eligibility, conditions of parole, and the revocation of parole supervision in the cases of juvenile offenders.

Based on the enactment of P.L. 2019, c. 363, and the revisions to the Parole Act of 1979, N.J.S.A. 30:4-123.45 et seq., the Board proposes to repeal N.J.A.C. 10A:71-3.22 through 3.33 and 3.57. These rules pertain to juvenile offenders. Further, numerous amendments to N.J.A.C. 10A:71 and 10A:72 would delete all references to the Juvenile Justice Commission and juvenile offenders, as well as eliminate language associated with juvenile offenders. The amendments also make appropriate grammatical corrections and recodify certain subsections, as appropriate. A proposed amendment at N.J.A.C. 10A:71-1.4(f) would delete the reference to two associate members of the Board servicing on a juvenile Board panel. Proposed new N.J.A.C. 10A:71-1.4(h) provides for the Chairperson's designation of a Board member to participate as a member of the panel established in the Juvenile Justice Commission pursuant to N.J.S.A. 2A:4A-44.b.

On January 20, 2020, Governor Murphy signed P.L. 2019, c. 364, known as the "Earn Your Way Out Act." The law provides for correctional and parole reforms, including requiring the Department of Corrections to develop a reentry plan for each inmate (N.J.S.A. 30:1B-6.10); establishing administrative parole release for certain inmates; and providing for parole compliance credits that would reduce the period of parole supervision. The legislation became effective February 1, 2021.

Based on the enactment of P.L. 2019, c. 364, the Board proposes new N.J.A.C. 10A:71-2.12, 3.22, and 6.14. Proposed new N.J.A.C. 10A:71-2.12 codifies the Board's participation with the Department of Corrections in the reentry preparation for inmates in State correctional facilities, including the development of a reentry plan. Proposed new N.J.A.C. 10A:71-3.22 codifies an administrative parole release process for certain inmates, including the criteria to be met in order for an inmate to be eligible for administrative parole release; the non-requirement of a Board panel hearing if the inmate is eligible for administrative parole release; and an administrative appeal process, should administrative parole release be denied. Proposed new N.J.A.C. 10A:71-6.14 codifies parole

compliance credits for certain parolees, including the statutory rate at which credit is earned and the forfeiture of credit for non-compliance with the conditions of supervision.

P.L. 2019, c. 364 also made several amendments to the provisions of P.L. 1979, c. 441, the Parole Act of 1979, N.J.S.A. 30:4-123.45 et seq., that became effective February 1, 2021. Proposed amendments to the Administrative Code based on the statutory amendments are specified below.

On January 29, 2020, the Board suspended the enforcement and imposition of the Community Supervision for Life (CSL) and Parole Supervision for Life (PSL) general conditions that prohibited all sex offenders from utilizing social networking. After that date, the restricting of sex offenders from utilizing social networking would be effectuated by the imposition of a special condition on a case-by-case basis. Based on the Board's action on January 29, 2020, the Board proposes to delete N.J.A.C. 10A:71-6.11(b)23 (CSL) and 6.12(d)25 (PSL), the general condition prohibiting all sex offenders from utilizing social networking. Further, the Board proposes new N.J.A.C. 10A:72-15. The new rules pertain to the imposition of a special condition prohibiting the utilization of social networking in the cases of offenders serving a special sentence of CSL or PSL. Proposed new N.J.A.C. 10A:72-15 codifies the procedures for the imposition of such a special condition, including the criteria, written notice requirement, opportunity to contest, Board panel review, and annual review process.

The Board proposes to repeal N.J.A.C. 10A:71-7.17 and 7.17A. N.J.A.C. 10A:71-7.17 pertains to inmates who violated parole prior to October 17, 1994, and N.J.A.C. 10A:71-7.17A pertains to inmates who violated parole after October 17, 1994 and prior to December 4, 1995. In view of the time periods to which the sections apply, the Board believes that it is not necessary to maintain the sections in the New Jersey Administrative Code. Further, the Board has elected to recodify existing N.J.A.C. 10A:71-7.17B as 7.17.

Various proposed amendments provide for minor language corrections and corrections of cross-references to New Jersey Administrative Code citations due, in part, to the deletion and/or repeal of rules related to juvenile offenders, the repeal of N.J.A.C. 10A:71-7.17 and 7.17A, and the recodification of other rules. Additional proposed substantive and technical amendments are as follows:

Proposed amendments at N.J.A.C. 10A:71-1.1 provide for the inclusion of the terms "administrative parole release" and "reentry plan." The definitions are based on the enactment of P.L. 2019, c. 364 (N.J.S.A. 30:4-123.55.b, c, d, and e).

The proposed amendment at N.J.A.C. 10A:71-1.10(a)2 would indicate that posting on the Board's website will be considered the Board's other secondary notice, pursuant to N.J.A.C. 1:30-5.2(a)6ii, and proposed new N.J.A.C. 10A:71-1.10(a)3ii and iii would require that notice regarding proposed rulemakings be provided to electronic mailing list subscribers and notice requestors.

A proposed amendment at N.J.A.C. 10A:71-3.2(c)5 would delete reference to the phrase "future parole eligibility," as such language is deemed redundant.

Proposed new N.J.A.C. 10A:71-3.7(e)14 requires the report concerning an inmate to be filed with the appropriate Board panel by Department of Corrections staff to include an assessment of whether the inmate meets the requirement of administrative parole release. The proposed amendment is based on the amendment to N.J.S.A. 30:4-123.54.b that will become effective February 21, 2021.

The proposed amendment at N.J.A.C. 10A:71-3.8 provides for public notice of inmate eligibility for parole consideration to be forwarded to the Office of the Public Defender and the private attorney of record for an inmate. The proposed amendment is based on the amendment to N.J.S.A. 30:4-123.45.b(5) that will become effective February 21, 2021.

The proposed amendment at N.J.A.C. 10A:71-3.15 provides that the hearing officer conducting the initial parole hearing is to determine whether the inmate is eligible for administrative parole release. The proposed amendment is based on the amendment to N.J.S.A. 30:4-123.55.a, which will become effective February 21, 2021.

The proposed amendments at N.J.A.C. 10A:71-3.16 provide that the Board members assigned to review an inmate's case are to confirm whether the inmate is eligible for administrative parole release. If the

inmate is eligible for administrative parole release, parole release is to be certified as soon as practicable after the parole eligibility date. If the inmate is not eligible for administrative parole release, the inmate's case is to be referred for a Board panel hearing. The confirmation by the reviewing Board members of eligibility for administrative parole release is based on the amendment at N.J.S.A. 30:4-123.55.b that will become effective February 21, 2021.

The proposed amendment at N.J.A.C. 10A:71-3.21(a)1 includes the offense of strict liability for drug induced death in the category of offenses that establishes a presumptive future eligibility term of 27 months upon an inmate being denied parole release.

The proposed amendments at N.J.A.C. 10A:71-3.54 include the deletion of paragraph (i)3. In *Joseph Norman v. N.J. State Parole Board*, 457 N.J. Super 513 (decided January 14, 2019), the Superior Court—Appellate Division determined that paragraph (i)3 did not apply to an inmate who has served the entirety of the sentence imposed under the Sex Offender Act. Accordingly, paragraph (i)3 is proposed for deletion.

Proposed new N.J.A.C. 10A:71-4.1(j) establishes the criteria for an inmate to appeal a decision to deny administrative parole release.

The proposed amendments at N.J.A.C. 10A:71-5.8(b)1 delete references to the inmate's attorney, as representation by an attorney at a rescission hearing is not authorized.

The proposed amendments at N.J.A.C. 10A:71-6.4(a)3 add the obligation that the offender is to notify the assigned parole officer after any contact with a law enforcement agency. The reference to accepting any pre-trial release, including bail, is proposed for deletion from paragraph (a)3 and added as new paragraph (a)4.

Proposed new N.J.A.C. 10A:71-6.4(a)4 requires the offender to report in person to the assigned parole officer no later than the next business day after accepting any pre-trial release, including bail, or after being released from a county or State correctional facility.

The proposed amendments at recodified N.J.A.C. 10A:71-6.4(a)5 and 6 include reference to the permanent and temporary restraining orders authorized pursuant to N.J.S.A. 2C:12-10.1 and 10.2, respectively. The proposed amendment at recodified N.J.A.C. 10A:71-6.4(a)7 includes reference to the permanent restraining order authorized pursuant to N.J.S.A. 2C:12-10.1.

The proposed amendments at recodified N.J.A.C. 10A:71-6.4(a)11 clarify that the offender is not to own or possess a firearm, whether or not the firearm is operational; prohibit the offender from owning or possessing an imitation firearm for any purpose; and prohibit the offender from owning or possessing firearm ammunition.

Proposed new N.J.A.C. 10A:71-6.4(a)21 requires an offender to notify the assigned parole officer no later than the next business day of any contact with a representative of a child protection agency including, but not limited to, the New Jersey Department of Child Protection and Permanency.

The proposed amendments at N.J.A.C. 10A:71-6.4(h) and (i) would delete reference to an Assistant District Parole Supervisor (as well as deleting reference to the designated representative of the Commission, which is the Juvenile Justice Commission).

The proposed amendment at N.J.A.C. 10A:71-6.9(a)3 clarifies that any fine or restitution amount must be paid in full, as required pursuant to N.J.S.A. 30:4-123.66, prior to a parolee being considered for early discharge from parole supervision.

The proposed amendments at N.J.A.C. 10A:71-6.10 provide that applications for parolees to reside in other states pursuant to the Interstate Compact for Adult Offender Supervision, N.J.S.A. 2A:168-26 et seq., are to be processed by the Office of Interstate Services (O.I.S.), the unit within the Board vested with the responsibility to ensure the Board's compliance with the regulations of the Interstate Compact Commission and statutory provisions. An offender is obligated to complete the required application documents, and the Board institutional staff and District Parole Office staff, as appropriate, are to ensure that O.I.S. is provided with the appropriate documentation. O.I.S. shall ascertain whether the offender meets the criteria for the transfer of supervision and, if the criteria is met, forward the transfer application to the appropriate out-of-State jurisdiction. Whether an offender is accepted for supervision is a decision rendered by the out-of-State jurisdiction. Upon the decision of the out-of-State jurisdiction being received, notice to the offender of that decision

will be provided by institutional Board staff or the parole officer, as appropriate.

The proposed amendments at N.J.A.C. 10A:71-6.11(b)3 add the obligation that the offender is to notify the assigned parole officer after any contact with a law enforcement agency. The reference to accepting any pre-trial release, including bail, is proposed for deletion from paragraph (a)3 and added as new paragraph (b)4.

Proposed new N.J.A.C. 10A:71-6.11(b)4 requires the offender to report in person to the assigned parole officer no later than the next business day after accepting any pre-trial release, including bail, or after being released from a county or State correctional facility.

The proposed amendments at recodified N.J.A.C. 10A:71-6.11(b)5 and 6 include reference to the permanent and temporary restraining orders authorized pursuant to N.J.S.A. 2C:12-10.1 and 10.2, respectively. The proposed amendment at recodified N.J.A.C. 10A:71-6.11(b)7 includes reference to the permanent restraining order authorized pursuant to N.J.S.A. 2C:12-10.1.

The proposed amendments at recodified N.J.A.C. 10A:71-6.11(b)11 clarify that the offender is not to own or possess a firearm, whether or not the firearm is operational; prohibit the offender from owning or possessing an imitation firearm for any purpose; and prohibit the offender from owning or possessing firearm ammunition.

Proposed new N.J.A.C. 10A:71-6.11(b)24 requires an offender to notify the assigned parole officer no later than the next business day of any contact with a representative of a child protection agency including, but not limited to, the New Jersey Department of Child Protection and Permanency.

The proposed amendment at N.J.A.C. 10A:71-6.11(c)3 inserts reference to the "appropriate court." An offender, therefore, is to refrain from residing with any minor without the prior approval of the District Parole Supervisor, or designated representative, or the appropriate court.

The proposed amendments at N.J.A.C. 10A:71-6.11(k) would delete reference to an Assistant District Parole Supervisor (as well as deleting reference to the designated representative of the Commission, which is the Juvenile Justice Commission) and would replace the reference to opinion with reasonable belief. Accordingly, additional special conditions may be imposed when there is a reasonable belief that such conditions would reduce the likelihood of recurrence of criminal behavior.

The proposed amendments at N.J.A.C. 10A:71-6.12(d)3 add the obligation that the offender is to notify the assigned parole officer after any contact with a law enforcement agency. The reference to accepting any pre-trial release, including bail, is proposed for deletion from paragraph (a)3 and added as new paragraph (d)4.

Proposed new N.J.A.C. 10A:71-6.12(d)4 requires the offender to report in person to the assigned parole officer no later than the next business day after accepting any pre-trial release, including bail, or after being released from a county or State correctional facility.

The proposed amendments at recodified N.J.A.C. 10A:71-6.12(d)5 and 6 include reference to the permanent and temporary restraining orders authorized pursuant to N.J.S.A. 2C:12-10.1 and 10.2, respectively. The proposed amendment at recodified N.J.A.C. 10A:71-6.12(d)7 includes reference to the permanent restraining order authorized pursuant to N.J.S.A. 2C:12-10.1.

The proposed amendments at recodified N.J.A.C. 10A:71-6.12(d)11 clarify that the offender is not to own or possess a firearm, whether or not the firearm is operational; prohibit the offender from owning or possessing an imitation firearm for any purpose; and prohibit the offender from owning or possessing firearm ammunition.

Proposed new N.J.A.C. 10A:71-6.12(d)27 requires an offender to notify the assigned parole officer no later than the next business day of any contact with a representative of a child protection agency including, but not limited to, the New Jersey Department of Child Protection and Permanency.

The proposed amendment at N.J.A.C. 10A:71-6.12(e)3 inserts reference to the "appropriate court." An offender, therefore, is to refrain from residing with any minor without the prior approval of the District Parole Supervisor, or designated representative, or the appropriate court.

The proposed amendments at N.J.A.C. 10A:71-6.12(n) would delete reference to an Assistant District Parole Supervisor (as well as deleting reference to the designated representative of the Commission, which is the

Juvenile Justice Commission) and would replace the reference to opinion with reasonable belief. Additional special conditions may be imposed when there is a reasonable belief that such conditions would reduce the likelihood of recurrence of criminal behavior.

The proposed amendment at N.J.A.C. 10A:71-6.12(t) provides that an offender being released to the community after the service of a term of incarceration for violation of the conditions of parole supervision for life is to be served with a written certificate that specifies the conditions of parole supervision for life.

The proposed amendment at N.J.A.C. 10A:71-7.2(b) provides that the designated representatives of the district parole supervisors are also authorized to issue warrants on behalf of the Chairperson.

N.J.A.C. 10A:71-7.6 is proposed for repeal and replacement to codify the practice that hearing officers who conduct preliminary hearings are appointed by the Chairperson (or his or her designated representative). Appointed hearing officers are not staff members of the Division of Parole and are not involved in the supervision of parolee cases.

The proposed amendment at N.J.A.C. 10A:71-7.9(c) clarifies that the determination of the hearing officer whether the parolee shall be taken into custody or released from custody will be reviewed by a Board panel, which will have the authority to direct that the custody warrant be withdrawn.

The proposed amendment at N.J.A.C. 10A:71-7.9(d) clarifies that, if the warrant is authorized to be withdrawn, the hearing officer shall include in the required summary report, not in a Notice of Decision, which is not issued by the hearing officer, the basis for the determination that the parolee does not pose a danger to the public safety.

N.J.A.C. 10A:71-7.10 is proposed for repeal and replacement to require the hearing officer to record the preliminary hearing by using an electronic recording device. If the electronic recording device is not operational, the parolee may waive, in writing, the recording of the hearing. If the parolee does not wish to proceed without the preliminary hearing being recorded, the hearing will be rescheduled within 14 days. Rather than the new rule including a reference to the hearing officer preparing and forwarding a Notice of Decision to the parolee and the parolee's attorney, the Department or Commission, and the appropriate Board panel, the new rules provide that in lieu of a Notice of Decision, the hearing officer will prepare, within seven days of the preliminary hearing, a hearing summary that will be forwarded to the parolee and the parolee's attorney for comment, the appropriate Board panel, and the District Parole Supervisor. The hearing summary is to include the reasons for the hearing officer's opinion as to whether probable cause does or does not exist to believe that the parolee had violated a condition of supervision. Existing N.J.A.C. 10A:71-7.11 is also proposed for repeal and replacement to require that the Board panel then (after the process in proposed new N.J.A.C. 10A:71-7.10) reviews the hearing summary and any written exceptions thereto, and determines whether probable cause exists to believe that the parolee has seriously or persistently violated conditions of his or her supervision and whether revocation is desirable (see N.J.S.A. 30:4-123.62.c(3)).

The proposed amendment at N.J.A.C. 10A:71-7.13(c) reflects that the request by a parolee to postpone the conducting of the revocation hearing shall be granted by the Board panel, not the hearing officer, for good cause, and that a record of the determination of the Board panel is to be made in the parolee's case record.

The proposed amendment at N.J.A.C. 10A:71-7.16(b) requires the hearing officer to prepare a written summary of the revocation hearing within seven days of the date of the revocation hearing.

The proposed amendments at recodified N.J.A.C. 10A:71-7.17(a)3ii and iii include reference to the permanent and temporary restraining orders authorized pursuant to N.J.S.A. 2C:12-10.1 and 10.2, respectively. The proposed amendment at subsection (a)3iv includes reference to the permanent restraining order authorized pursuant to N.J.S.A. 2C:12-10.1.

The proposed amendment at recodified N.J.A.C. 10A:71-7.17(a)3v reflects the amendment of this condition of supervision as proposed at N.J.A.C. 10A:71-6.4(a)11. Proposed new N.J.A.C. 10A:71-7.17(a)3vi and vii reflect the conditions of supervision as proposed at N.J.A.C. 10A:71-6.4(a)11.

A proposed amendment at N.J.A.C. 10A:72-1.1 includes in the definition of "parolee," the term "community," as there are adult offenders

under supervision serving a special sentence of community supervision for life.

The proposed amendment at N.J.A.C. 10A:72-2.1(b) provides that a designee of the District Parole Supervisor is authorized to assign a parole officer to investigate a community parole plan.

The proposed amendment at N.J.A.C. 10A:72-2.1(d)8 provides that the parole officer's completed investigation report of the community parole plan is to be submitted to the District Parole Supervisor or designee.

Proposed new N.J.A.C. 10A:72-2.1(e) provides that the District Parole Supervisor, or designee, is to review the parole officer's completed investigation report of the community parole plan; ascertain whether the plan is suitable; and if not suitable, inform appropriate Board staff that an alternate parole plan needs to be obtained from the inmate and investigated.

Proposed new N.J.A.C. 10A:72-2.3(a) codifies the requirement that the assigned parole officer is to create a case plan agreement with the offender to document supervision goals. The proposed new subsection also identifies the items that are to be included in the case plan agreement. As a result of this new subsection, existing N.J.A.C. 10A:72-2.3(b) is proposed for deletion.

The proposed amendment at N.J.A.C. 10A:72-2.4(b)3iii deletes the phrase "reporting center" and inserts the phrase "that provides reentry services" because programs are contracted by the Board for the purpose of providing reentry services to offenders.

Proposed new N.J.A.C. 10A:72-2.5(f) identifies certain factors that a District Parole Supervisor, or designee, should assess when evaluating an offender's request to reside with a minor child.

Proposed new N.J.A.C. 10A:72-2.6(e) sets forth certain factors that a District Parole Supervisor, or designee, should assess when evaluating an offender's request to initiate, establish, or maintain unsupervised contact with a minor child.

The proposed amendments at N.J.A.C. 10A:72-4.1(a)1, 4.10(b), and 5.1(b)1 clarify the courses that a parole officer must complete in order to be permitted to carry a firearm.

The proposed repeal and replacement of N.J.A.C. 10A:72-4.11 and 5.9 clarify that a parole officer shall not operate a motor vehicle for the purpose of engaging in a motor vehicle pursuit.

The proposed amendment at N.J.A.C. 10A:72-6.7(a) clarifies that testing (urine monitoring) is for the purpose of detecting the presence of controlled dangerous substances or alcohol. Further, existing subsection (b) is proposed for replacement, as testing (urine monitoring) may be performed at any time, as authorized by N.J.A.C. 10A:71-6.4(a)17, 6.11(b)16, and 6.12(d)16.

The proposed amendment at N.J.A.C. 10A:72-7.1 deletes existing subsection (b), as not all contraband seized by parole officers relates to criminal matters and, therefore, the contraband need not be provided to the local law enforcement jurisdiction or county prosecutor's office. Proposed amendments to recodified subsection (b) require the parole officer to record, in the investigation report, whether the contraband was submitted to the local law enforcement jurisdiction, the county prosecutor's office, or maintained by the Division of Parole.

The proposed deletion of N.J.A.C. 10A:72-8.2(h) and 8.4(c) would remove the mandating of the number of parole officers necessary for the transportation of parolees in State vehicles. The number of parole officers to be assigned for the transportation of parolees is a matter to be determined by the Director, Division of Parole, or Division senior management, based on the operational needs of the Division and the safety of parole officers and parolees to be transported.

The proposed amendment at N.J.A.C. 10A:72-10.3(c) clarifies that an offender should indicate that he or she "contests" the imposition of a curfew, electronic monitoring, or GPS monitoring condition at the time the offender is served with written notice of the imposition of a curfew, electronic monitoring, or GPS monitoring condition.

The proposed amendment at N.J.A.C. 10A:72-11.1(a) clarifies the effective date of N.J.S.A. 30:4-123.91 (the Sex Offender Monitoring Act).

The proposed amendment at N.J.A.C. 10A:72-14.2(c) clarifies that an offender should indicate that he or she "contests" the imposition of a special condition prohibiting access to the Internet at the time the offender is served with written notice of the imposition of the Internet access condition.

This notice of proposal is excepted from the rulemaking calendar requirements at N.J.A.C. 1:30-3.3(a) because the Board has provided a 60-day comment period pursuant to N.J.A.C. 1:30-3.3(a)5.

Social Impact

The proposed readoption with amendments, repeals, and new rules of N.J.A.C. 10A:72 and the proposed amendments, repeals, and new rules at N.J.A.C. 10A:71 are partially based on the enactment of P.L. 2019, c. 363, and impact juvenile offenders and the Board. Effective November 1, 2020, the Board no longer had jurisdiction to act as the parole-decision making authority in the cases of juvenile offenders because that authority will be vested in a special panel established within the Juvenile Justice Commission (JJC). The Board's only involvement in juvenile cases is the participation of one Board member to be designated by the Chairperson functioning as a member of the special panel established within the JJC. Further, Board staff is no longer processing juvenile offender cases for parole consideration.

The proposed readoption with amendments, repeals, and new rules of N.J.A.C. 10A:72 and the proposed amendments, repeals, and new rules at N.J.A.C. 10A:71 are partially based on the enactment of P.L. 2019, c. 364 (Earn Your Way Out Act), effective February 1, 2021, and impact on certain inmates confined in the custody of the Commissioner of the Department of Corrections (DOC), parolees, Board staff, Division of Parole staff, and the Board. Board staff will be involved with DOC staff in the development of an individualized comprehensive reentry plan for services during an inmate's incarceration. Board staff will also be involved with DOC staff in the compilation and dissemination of information to inmates regarding programs and organizations that provide assistance and reentry services. Board staff/Division of Parole staff will assist inmates in gaining access to programs and procuring post-release services. Certain inmates will be eligible for mandatory parole release through the establishment of an administrative parole release process. At the time of parole eligibility, Board staff and Board members will assess if an inmate meets the criteria for administrative parole release. If the criteria are met, the inmate will be certified for parole release without the conducting of a Board panel hearing. Board panel hearings will, therefore, decrease in number. Board staff will be required to process the anticipated increase in the number of community residential parole plans and Division of Parole staff will be required to perform investigations of the increased number of proposed community residential parole plans. Board staff will also be required to prepare the required parole certificates and related release documents in the increased number of parole release cases. Upon the administrative parole release of inmates, it is anticipated that caseloads of Division of Parole staff will increase. Certain parolees will be entitled to receive a one-day credit for every six days of parole supervision completed (the credit is subject to forfeiture for non-compliance with the conditions of supervision). A parolee may, therefore, reduce the period of parole supervision to an earlier date than determined at the time of parole release.

Proposed amendments at N.J.A.C. 10A:71-6.4(a)3, 6.11(b)3, and 6.12(d)3 place a requirement on offenders to report any contact with a law enforcement agency.

Proposed new N.J.A.C. 10A:71-6.4(a)4, 6.11(b)4, and 6.12(d)4 place a requirement on offenders to report to the assigned parole officer no later than the next business day after accepting any pre-trial release, including bail, or after being released from a county or State correctional facility.

Proposed amendments at N.J.A.C. 10A:71-6.4(a)5, 6.11(b)5, and 6.12(d)5 place a requirement on offenders to notify the assigned parole officer upon the issuance of a temporary or final restraining or protective order pursuant to N.J.S.A. 2C:12-10.1 (stalking) or 2C:12-10.2 (stalking; victim is under 18 years of age or mentally defective).

Proposed amendments at N.J.A.C. 10A:71-6.4(a)6, 6.11(b)6, and 6.12(d)6 place a requirement on offenders to comply with any conditions established within a temporary or final restraining or protective order issued pursuant to N.J.S.A. 2C:12-10.1 (stalking) or 2C:12-10.2 (stalking; victim under 18 years of age or mentally defective).

Proposed amendments at N.J.A.C. 10A:71-6.4(a)7, 6.11(b)7, and 6.12(d)7 place a requirement on offenders to refrain from behavior that would result in the issuance of a final restraining or protective order pursuant to N.J.S.A. 2C:12-10.1 (stalking).

Proposed new N.J.A.C. 10A:71-6.4(a)11ii, 6.11(b)11ii, and 6.12(d)11ii prohibit offenders from owning or possessing any imitation firearm for any purpose.

Proposed new N.J.A.C. 10A:71-6.4(a)11iii, 6.11(b)11iii, and 6.12(d)11iii prohibit offenders from owning or possessing any firearm ammunition.

Proposed new N.J.A.C. 10A:71-6.4(a)21, 6.11(b)24, and 6.12(d)27 place a requirement on offenders to notify the assigned parole officer no later than the next business day of any contact with a representative of a child protection agency including, but not limited to, the New Jersey Department of Child Protection and Permanency.

The Division of Parole staff will be required to ensure that offenders comply with the conditions of supervision, as amended, and assess whether a violation should result in the implementation of the revocation hearing process and/or the issuance of a criminal complaint.

Proposed new N.J.A.C. 10A:72-2.5(f) identifies certain factors that a District Parole Supervisor, or designee, should assess when evaluating an offender's request to reside with a minor child. Inclusion of the factors also provides notice to an offender as to how the request will be evaluated.

Proposed new N.J.A.C. 10A:72-2.6(e) identifies certain factors that a District Parole Supervisor should assess when evaluating an offender's request to initiate, establish, or maintain unsupervised contact with a minor child. Inclusion of the factors also provides notice to an offender as to how the request will be evaluated.

Offenders serving a special sentence of community or parole supervision for life will be affected by the proposed new rules at N.J.A.C. 10A:72-15, related to the imposition of a special condition prohibiting an offender from using any computer and/or device to create any social networking profile or to access any social networking service or chat room. The proposed new rules impact on 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 imposition of such a special condition, 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 proposed readoption with amendments, repeals, and new rules of N.J.A.C. 10A:72 and the proposed amendments, repeals, and new rules at N.J.A.C. 10A:71 that are based on the enactment of P.L. 2019, c. 363, relate to the parole-decision making authority being removed from the Board and being vested in the Juvenile Justice Commission. As the Board will not be processing juvenile offender cases for parole consideration, it is anticipated that Board costs will decrease by an indeterminate amount.

The proposed readoption with amendments, repeals, and new rules of N.J.A.C. 10A:72 and the proposed amendments, repeals, and new rules at N.J.A.C. 10A:71 that are based on the enactment of P.L. 2019, c. 364 (Earn Your Way Out Act), create an administrative parole release process that would result in a significant increase in the number of offenders released from State prison facilities to parole supervision. Accordingly, in order to process the number of offenders anticipated to be released on parole and in order to provide supervision services to the increased number of offenders on parole supervision, it is anticipated that additional funding will be necessary. Funding will provide for the increased number of parolees anticipated to be placed in community programs, provide for the increased number of parole officer personnel necessary to provide the required supervision services, and provide for the increase in operating expenditures related to the increased number of parole officer personnel. Further, based on accelerating the release of certain inmates to parole supervision, the Department of Corrections may incur a reduction in its annual expenditures as the Department of Corrections would be incarcerating these inmates for a lesser time period.

The Board does not believe that additional funding is necessary to implement the proposed readoption with amendments, repeals, and new rules of N.J.A.C. 10A:72 and the proposed amendments, repeals, and new rules at N.J.A.C. 10A:71. The cost to implement same will be met by the Board through the established budget process with funding presently allocated by the State.

Federal Standards Statement

The proposed readoption with amendments, repeals, and new rules of N.J.A.C. 10A:72 and the proposed amendments, repeals, and new rules at N.J.A.C. 10A:71 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 proposed readoption with amendments, repeals, and new rules of N.J.A.C. 10A:72 and the proposed amendments, repeals, and new rules at N.J.A.C. 10A:71 pursuant to P.L. 1995, c. 65 is, therefore, not required.

Jobs Impact

The proposed readoption with amendments, repeals, and new rules of N.J.A.C. 10A:72 and the proposed amendments, repeals, and new rules at N.J.A.C. 10A:71 pertain to the Board's parole release hearing and decision-making processes and the Division of Parole's duties and responsibilities related to the supervision of parolees. It is not anticipated that any jobs will be lost or created as a result of the proposed readoption with amendments, repeals, and new rules of N.J.A.C. 10A:72 and the proposed amendments, repeals, and new rules at N.J.A.C. 10A:71.

Agriculture Industry Impact

The proposed readoption with amendments, repeals, and new rules of N.J.A.C. 10A:72 and the proposed amendments, repeals, and new rules at N.J.A.C. 10A:71 pertain to the Board's parole release hearing and decision-making processes and the Division of Parole's duties and responsibilities related to the supervision of parolees. The proposed readoption with amendments, repeals, and new rules of N.J.A.C. 10A:72 and the proposed amendments, repeals, and new rules at N.J.A.C. 10A:71, therefore, will not have any impact on the agriculture industry in New Jersey.

Regulatory Flexibility Statement

The proposed readoption with amendments, repeals, and new rules of N.J.A.C. 10A:72 and the proposed amendments, repeals, and new rules at N.J.A.C. 10A:71 pertain to the Board's parole release hearing and decision-making processes and the Division of Parole's duties and responsibilities related to the supervision of parolees and do not impose 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. A regulatory flexibility analysis is, therefore, not required.

Housing Affordability Impact Analysis

The proposed readoption with amendments, repeals, and new rules of N.J.A.C. 10A:72 and the proposed amendments, repeals, and new rules at N.J.A.C. 10A:71 pertain to the Board's parole release hearing and decision-making processes and the Division of Parole's duties and responsibilities related to the supervision of parolees. The proposed readoption with amendments, repeals, and new rules of N.J.A.C. 10A:72 and the proposed amendments, repeals, and new rules at N.J.A.C. 10A:71 will, therefore, have no impact on the affordability of housing nor will the proposed readoption with amendments, repeals, and new rules of N.J.A.C. 10A:72 and the proposed amendments, repeals, and new rules at N.J.A.C. 10A:71 increase or decrease the average cost of housing in the State.

Smart Growth Development Impact Analysis

The proposed readoption with amendments, repeals, and new rules of N.J.A.C. 10A:72 and the proposed amendments, repeals, and new rules at N.J.A.C. 10A:71 pertain to the Board's parole release hearing and decision-making processes and the Division of Parole's duties and responsibilities related to the supervision of parolees. The proposed readoption with amendments, repeals, and new rules of N.J.A.C. 10A:72 and the proposed amendments, repeals, and new rules at N.J.A.C. 10A:71 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.

Racial and Ethnic Community Criminal Justice and Public Safety Impact

The proposed readoption with amendments, repeals, and new rules of N.J.A.C. 10A:72 and the proposed amendments, repeals, and new rules at N.J.A.C. 10A:71 pertain to the Board's parole release hearing and

decision-making processes and the Division of Parole’s duties and responsibilities related to the supervision of parolees. The proposed readoption with amendments, repeals, and new rules of N.J.A.C. 10A:72 and the proposed amendments, repeals, and new rules at N.J.A.C. 10A:71 will, therefore, have no impact on pretrial detention, sentencing, or probation policies. However, the proposed readoption with amendments, repeals, and new rules of N.J.A.C. 10A:72 and the proposed amendments, repeals, and new rules at N.J.A.C. 10A:71 will impact on juvenile offenders confined in State correctional facilities as the parole-decision making authority is vested, as of November 1, 2020, in the Juvenile Justice Commission. The proposed readoption with amendments, repeals, and new rules of N.J.A.C. 10A:72 and the proposed amendments, repeals, and new rules at N.J.A.C. 10A:71 will also impact in the cases of certain inmates confined in State correctional facilities serving a term of incarceration and who become eligible for parole consideration and participate in the parole release hearing process and will impact on those offenders subject to community supervision by the Division of Parole.

Full text of the rules proposed for readoption may be found in the New Jersey Administrative Code at N.J.A.C. 10A:72

Full text of the rules proposed for repeal may be found in the New Jersey Administrative Code at N.J.A.C. 10A:71-3.22 through 3.33, 3.57, 7.6, 7.10, 7.11, 7.17, and 7.17A and 10A:72-4.11 and 5.9.

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.

“Administrative parole release” shall mean the release of an adult inmate who has met the criteria set forth at N.J.A.C. 10A:71-3.22 at the time of primary, or subsequent, parole eligibility. Administrative parole release occurs after a hearing officer reviews the pre-parole report and the inmate is certified for release by an assigned member of the Board panel. Administrative parole release shall not require a parole consideration hearing.

...
[“Commission” shall mean the Juvenile Justice Commission established pursuant to section 2 of P.L. 1995, c.284 (N.J.S.A. 52:17B-170).]

...
“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 offenders who are serving a mandatory period of parole supervision pursuant to N.J.S.A. 2C:43-7.2(c); the supervision of offenders under parole supervision from other states who have been accepted under the terms of the Interstate Compact for Adult Offender Supervision; 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 facilities” shall mean the New Jersey Training School for Boys, the Juvenile Medium Security Facility, any other facility or program established by the Commission in the future and any other facility or program subject to the jurisdiction of the Commission or established or contracted for in the future by the Commission.

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

...
“Parole officer” shall mean[, with respect to an adult inmate,] an officer assigned by the Chairperson of the State Parole Board, or his or her designee [and, with respect to a juvenile inmate, a person assigned by the Commission].

“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 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); 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.

...
“Reentry plan” means a plan prepared by appropriate staff within the Department and the State Parole Board designed to prepare an inmate for successful integration as a productive, law-abiding citizen upon release from incarceration.

...

10A:71-1.2 Board meetings

(a) Formal Board meetings shall be any meetings where Board policy, rules, and regulations are determined.

1. Except as provided [herein] **in this section**, the Chairperson shall give at least one week’s notice of a formal Board meeting to members of the Board, the Governor, **and** the Commissioner [and the Commission].

2. Formal Board meetings shall be open only to the Governor and the Governor’s representatives, the Commissioner and the Commissioner’s representatives, [the Commission’s representatives,] representatives of recognized victim groups, and to such other persons as authorized by the Board.

(b)-(j) (No change.)

10A:71-1.4 Board membership

(a) The Board shall consist of a Chairperson, 14 associate members, and three alternate Board members. Members of the [board] **Board** and the alternate [board] **Board** members shall be appointed by the Governor with the advice and consent of the Senate from qualified persons with training or experience in law, sociology, criminal justice, [juvenile justice] or related branches of the social sciences. Members shall serve until their successors are appointed and have qualified.

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

(e) Upon certification of the Chairperson that additional parole panels are needed on a temporary basis for the efficient processing of parole decisions, the Governor also may appoint not more than four temporary acting parole Board members from qualified persons with training or experience in law, sociology, criminal justice, [juvenile justice] or related branches of the social sciences. A temporary acting member shall be appointed for a term of three months. The Governor may extend the appointment of any, or all, of the temporary acting members for additional terms of three months, upon certification of the Chairperson that additional parole panels are needed on a temporary basis for the efficient processing of parole decisions. A temporary acting member shall be authorized to participate in administrative review of initial parole hearing decisions, parole consideration hearings, and determinations concerning revocation or rescission of parole.

(f) [At the time of appointment, the Governor shall designate two associate members of the Board to serve on a panel on juvenile commitments. The remaining 12] **The** associate members of the Board shall be appointed by the Governor to panels on adult sentences. The Chairperson of the Board shall assign the [12] associate members so appointed to six panels on adult sentences. The Chairperson of the Board shall be a member of each panel. Nothing provided [herein] **in this subsection** shall prohibit the Chairperson from reassigning any member appointed to a panel on adult sentences to facilitate the efficient function of the Board. [Further, nothing provided herein shall prohibit the Chairperson from temporarily reassigning any member appointed to a panel on juvenile commitments to a panel on adult sentences or a panel on young adult sentences to facilitate the efficient function of the Board.] An alternate Board member may assume, in accordance with the provisions of this section, the duties of any associate member[, regardless of whether that associate member serves on a panel on juvenile commitments or panels on adult sentences]. The Chairperson may assign

a temporary acting member to a panel on adult sentences [or juvenile commitments].

(g) (No change.)

(h) Pursuant to N.J.S.A. 2A:4A-44.h, the Chairperson shall designate a member of the Board to be on the panel established pursuant to N.J.S.A. 2A:4A-44.b. The designated Board member shall have experience in juvenile justice or have successfully completed a juvenile justice training program established by the Chairperson. The training program shall be comprised of seven hours of instruction including, but not limited to: emerging scientific knowledge concerning adolescent development, particularly adolescent brain function and how adolescent development relates to incarcerated youth, the influence of peer relationships among adolescents and peer contagion effects, and the effects of juvenile crime on victims.

10A:71-1.5 Disqualification or incapacity of board members

(a)-(e) (No change.)

(f) When by reason of disqualification a quorum of the juvenile board panel is lost, the Chairperson shall immediately request the Governor to appoint a qualified person to act in the stead of the disqualified Board member(s) during the period of disqualification.]

10A:71-1.10 Public notice regarding proposed rulemaking

(a) The Board shall provide for the following public notice for all rulemaking activity in accordance with N.J.S.A. 52:14B-1 et seq., and N.J.A.C. 1:30.

1. (No change.)

2. The notice of the rule proposal as filed, or a statement of the substance of the proposed rulemaking, shall be posted and made available electronically on the Board's Internet [web site] **website** at www.state.nj.us/parole. **Website posting shall also be considered the Board's "additional public notice" pursuant to N.J.A.C. 1:30-5.2(a)6ii;**

3. The notice of rule proposal as filed, or a statement of the substance of the proposed action, shall be provided to the following:

i. (No change.)

ii. Electronic mailing list subscribers;

iii. Notice requestors;

[ii.] **iv.** (No change in text.)

[iii.] **v.** A distribution list which shall include, but not be limited to, the Office of the Governor, the Commissioner, [the Juvenile Justice Commission,] the Department of Law and Public Safety, County Prosecutors, the Office of the Public Defender, Boards of Trustees of the adult[,] and young adult [and juvenile] correctional complexes, the Chief Executive Officers of State and county correctional facilities, victim advocacy groups, the American Civil Liberties Union of New Jersey, the New Jersey Association on Corrections, and inmate advocacy groups; and [iv.] **vi.** (No change in text.)

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

SUBCHAPTER 2. RECORDS; GENERAL ADMINISTRATIVE PROVISIONS

10A:71-2.10 Institutional infractions

(a) The Board panel or Board shall consider the final decision of the Department's [or Commission's] officials responsible for adjudication of institutional infractions to be [res judicata] **res judicata**.

(b) No rescission hearing shall be held pursuant to N.J.A.C. 10A:71-5, nor shall any alteration of the parole eligibility date be made pursuant to N.J.A.C. 10A:71-3, on the basis of an institutional infraction that has resulted in a finding of not guilty by the appropriate Department [or Commission] officials, provided that the finding of not guilty is rendered based on a substantive finding and not due to a procedural deficiency in the disciplinary process.

(c) When the basis for the rescission hearing or the alteration of the parole eligibility date is an institutional infraction that has resulted in a finding of guilt by the appropriate Department [or Commission] officials, the Board panel or hearing officer reviewing the case shall consider aggravating and mitigating circumstances, but shall not consider evidence

relating to the inmate's guilt or innocence of the commission of the institutional infraction.

10A:71-2.12 Reentry preparation

(a) Pursuant to N.J.S.A. 30:1B-6.10, the Commissioner and the Chairperson shall coordinate reentry preparation and other rehabilitative services for inmates in all State correctional facilities.

(b) Appropriate staff within the Department and the Board shall be responsible for engaging each inmate to develop and implement an individualized comprehensive reentry plan for services during the inmate's incarceration. This plan may be refined and updated during incarceration, as needed, and shall include recommendations for community-based services prior to the inmate's actual return to the community. Appropriate staff within the Department and Board shall determine what medical, psychiatric, psychological, educational, vocational, substance abuse, and social rehabilitative services shall be incorporated into a comprehensive reentry plan in order to prepare each inmate for successful integration upon release.

(c) Appropriate staff within the Department and the Board shall compile and disseminate information to inmates concerning organizations and programs, whether faith-based or secular programs, that provide assistance and services to inmates reentering society after a period of incarceration. In compiling this information, the appropriate staff shall consult with non-profit entities that provide informational services concerning reentry, the Executive Director of the Office of Faith-Based Initiatives in the Department of State, and the Corrections Ombudsman in, but not of, the Department of the Treasury.

(d) The Board shall ensure that all inmates are made aware of, and referred to, organizations that provide services in the county where the inmate is to reside after being released from incarceration. The Board shall assist inmates in gaining access to programs and procuring the appropriate post-release services.

SUBCHAPTER 3. PAROLE RELEASE HEARINGS

10A:71-3.1 Definitions

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

...
 "Primary eligibility date" shall mean the parole eligibility date established pursuant to N.J.S.A. 30:4-123.51 and [N.J.S.A.] 30:4-123.64, based upon the sentence imposed by the court or the Board schedules contained [in] at N.J.A.C. 10A:71-3.3[,] and 7.17[, 7.17A and 7.17B]. Such date may be altered pursuant to N.J.A.C. 10A:71-3.4, 3.5, and 3.21.
 ...

10A:71-3.2 Calculation of parole eligibility terms

(a) (No change.)

(b) Except as provided [in] at N.J.A.C. 10A:71-3.3(j), this section shall not apply to [juvenile or] young adult inmates.

(c) The parole eligibility terms for adult inmates shall be determined by the following:

1.-4. (No change.)

5. Where the inmate is serving time due to a revocation of parole, the parole eligibility term shall be the [future parole eligibility] term set by the appropriate Board panel upon revocation of parole pursuant to N.J.A.C. 10A:71-7.17[, 7.17A or 7.17B].

6.-11. (No change.)

(d)-(m) (No change.)

10A:71-3.3 Parole eligibility for young adult inmates

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

(g) Except as provided [herein] **in this section**, any primary eligibility date for a young adult offender established pursuant to this section or N.J.A.C. 10A:71-7.17[, 7.17A or 7.17B] may be reduced through program participation by the inmate.

1.-4. (No change.)

(h)-(k) (No change.)

10A:71-3.5 Parole eligibility term reductions (exceptional progress)

(a)-(k) (No change.)

(l) The young adult [and juvenile] Board panel[s] **shall** consider exceptional progress of young adult [and juvenile] inmates [respectively] at the time of reviews conducted pursuant to N.J.A.C. 10A:71-3.3(g)[, 3.25, 3.27 and 3.32].

10A:71-3.7 Preparation of cases for parole hearings; adult inmates

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

(e) Such report shall consist of the following information:

1.-11. (No change)

12. Any acquittals by reason of insanity pursuant to N.J.S.A. 2C:4-1; [and]

13. Any psychological reports prepared in connection with any court proceedings[.]; **and**

14. An assessment of whether the inmate meets the requirements of administrative parole release pursuant to N.J.A.C. 10A:71-3.22.

(f)-(l) (No change.)

10A:71-3.8 Public notice; adult inmates

(a) At least 30 days prior to parole consideration, a copy of the list prepared pursuant to N.J.A.C. 10A:71-3.7(a), including the county from which the inmate was sentenced and the crime for which he or she was incarcerated, shall be forwarded to **the Office of the Public Defender of each county or the private attorney of record for the inmate**, the appropriate prosecutor's office, the sentencing court, the Office of the Attorney General, the State Police, news organizations [which] **that** maintain offices at the State Capitol, and any other news organizations [which] **that** request such list, and to any other criminal justice agencies whose information and comment may be relevant.

(b) (No change.)

10A:71-3.12 In absentia hearings; adult inmates

(a) If an inmate is physically unable to appear at a parole hearing, or if an inmate refuses to appear at a parole hearing, the hearing officer, [or] Board panel, **or the Board** shall consider the case on the record in the inmate's absence.

(b) (No change.)

10A:71-3.15 Initial hearing and case review notice of decision; adult inmates

(a) At the conclusion of the parole hearing or case review, the hearing officer shall:

1. Recommend, except as provided [in] at (b) below, to the members of the appropriate Board panel that the inmate be released on parole; [or]

2. Refer the case to the appropriate Board panel for a hearing; [or]

3. Defer a decision for up to 45 days in order to obtain relevant information[.]; **or**

4. Determine whether the inmate is eligible for administrative parole pursuant to N.J.A.C. 10A:71-3.22 and, if the inmate is eligible, recommend that the inmate be granted administrative parole release.

(b)-(e) (No change.)

10A:71-3.16 Board member review; adult inmates

(a) When the hearing officer recommends that an inmate be released on parole, **or recommends the inmate for administrative parole release**, the Chairperson shall assign two members of the appropriate Board panel to review such recommendation.

(b) If the assigned Board members concur with the recommendation of the hearing officer **or, in the case of an inmate recommended for administrative parole release, confirm that the inmate is eligible for administrative parole release**, the members shall certify parole release as soon as practicable after the parole eligibility date by:

1.-5. (No change.)

(c) (No change.)

(d) If such Board members do not concur with the recommendation of the hearing officer **or, in the case of an inmate recommended for administrative parole release, do not confirm that the inmate is eligible for administrative parole release**, the members shall refer the case to the appropriate Board panel for a hearing and issue a written decision to the inmate, the Department, and the Board within seven days, consisting of the reasons for the Board members' referral.

(e) (No change.)

10A:71-3.21 Board panel action; schedule of future parole eligibility dates for adult inmates

(a) Upon determining to deny parole to a prison inmate, a two-member adult Board panel shall, based upon the following schedule, establish a future parole eligibility date upon which the inmate shall be primarily eligible for parole.

1. Except as provided [herein] **in this subsection**, a prison inmate serving a sentence for murder, manslaughter, aggravated sexual assault, [or] kidnapping, **or strict liability for drug induced death**, or serving any minimum-maximum or specific sentence in excess of 14 years for a crime not otherwise assigned pursuant to this section shall serve 27 additional months.

2. Except as provided [herein] **in this subsection**, a prison inmate serving a sentence for armed robbery or robbery or serving any minimum-maximum or specific sentence between eight and 14 years for a crime not otherwise assigned pursuant to this section shall serve 23 additional months.

3. Except as provided [herein] **in this subsection**, a prison inmate serving a sentence for burglary, narcotic law violations, theft, arson, or aggravated assault, or serving any minimum-maximum or specific sentence of at least four, but less than eight, years for a crime not otherwise assigned pursuant to this section shall serve 20 additional months.

4. Except as provided [herein] **in this subsection**, a prison inmate serving a sentence for escape, bribery, conspiracy, gambling, or possession of a dangerous weapon, or serving any minimum-maximum or specific sentence less than four years for a crime not otherwise assigned to this section shall serve 17 additional months.

(b) Upon determining to deny parole to a young adult inmate, a two-member young adult Board panel shall, based upon the following schedule, establish a future parole eligibility date upon which the inmate shall be primarily eligible for parole.

1. Except as provided [herein] **in this subsection**, a young adult inmate serving a sentence for a crime contained in [Categories] **Category A** of N.J.A.C. 10A:71-3.3 shall serve 24 additional months.

2. Except as provided [herein] **in this subsection**, a young adult inmate serving a sentence for a crime contained in Category B of N.J.A.C. 10A:71-3.3 shall serve 16 additional months.

3. Except as provided [herein] **in this subsection**, a young adult inmate serving a sentence for a crime contained in Category C of N.J.A.C. 10A:71-3.3 shall serve 12 additional months.

4. Except as provided [herein] **in this subsection**, a young adult inmate serving a sentence for a crime contained in Category D of N.J.A.C. 10A:71-3.3 shall serve 10 additional months.

5. Except as provided [herein] **in this subsection**, a young adult inmate serving a sentence for a crime contained in Category E of N.J.A.C. 10A:71-3.3 shall serve eight additional months.

(c)-(i) (No change.)

10A:71-3.22 Administrative parole release

(a) Pursuant to N.J.S.A. 30:4-123.55.d, an adult inmate shall be **administratively released on parole at the time of primary or subsequent parole eligibility provided that:**

1. **The inmate has not been previously convicted of, adjudicated delinquent for, or is currently serving a sentence imposed for any crime enumerated at N.J.S.A. 2C:7-2.b, 2C:43-7.2.d, 2C:43-6.c or g, or 30:4-27.26;**

2. **The inmate has not committed any prohibited acts required to be reported to the prosecutor pursuant to regulations promulgated by the Commissioner during the current period of incarceration, and has not committed any serious disciplinary infraction, designated in rules promulgated by the Commissioner as a prohibited act that is considered to be the most serious, and results in the most severe sanctions, within the previous two years;**

3. **The inmate has completed relevant rehabilitation programs, as determined by the Department and the Board, available at the correctional facility or applied for, but was unable to complete, or was denied access to, these programs due to circumstances beyond the inmate's control including, but not limited to, capacity limitations or exclusionary policies of these programs; and**

4. **Crime victims have received notification as required by law.**

(b) In the case of an inmate who meets the criteria set forth at (a) above, a hearing pursuant to N.J.A.C. 10A:71-3.17 shall not be required.

(c) An inmate released on parole pursuant to (a) above shall, during the term of parole supervision, remain in the legal custody of the Commissioner, be supervised by the Division of Parole, and be subject to the provisions and conditions established by the appropriate Board panel.

(d) If the parolee violates a condition of parole, the parolee shall be subject to the provisions at N.J.S.A. 30:4-123.60 through 123.63 and N.J.A.C. 10A:71-7 and may have their parole revoked and be returned to custody. If revocation and return to custody are deemed appropriate, the appropriate Board panel shall revoke the parolee's release and return the parolee to custody and confinement pursuant to the provisions at N.J.S.A. 30:4-123.51.b.

(e) Denials of administrative parole release shall be appealable in accordance with the provisions at N.J.A.C. 10A:71-4.1(j) and 4.2.

10A:71-3.23 through 3.33 (Reserved)

10A:71-3.48 Victim input

(a)-(j) (No change.)

(k) Upon the victim or nearest relative of a murder/manslaughter victim informing the Board, subsequent to notice being provided pursuant to (g) above, that such person intends to testify before the Board panel, the case shall be processed as follows:

1. (No change.)

2. The victim input segment of the Board panel hearing shall be conducted, with the consent of the Department [or Commission], in the administrative area of the institution.

3.-4. (No change.)

5. Upon confirmation by the victim or nearest relative of a murder/manslaughter victim of their appearance before the Board panel, the Board shall notify the Department [or Commission] of the identities of the person(s) who will appear before the Board panel on the scheduled hearing date.

6. The Board shall notify the victim or nearest relative of a murder/manslaughter victim that appropriate personal identification is required by the Department [or Commission] in order to enter the institution.

7.-11. (No change.)

12. Upon the conclusion of the victim input segment of the Board panel hearing, the Board panel shall reconvene the hearing with the inmate present in the hearing room designated by the Department [or Commission]. In the inmate segment of the Board panel hearing, the victim or nearest relative of a murder/manslaughter victim shall not be present in the hearing room.

(l) If a hearing is conducted pursuant to N.J.A.C. 10A:71-3.19, the Board shall notify the nearest relative of a murder victim, who has previously contacted the Board, of the hearing and shall afford the nearest relative of a murder victim the opportunity to testify in person before the Board or to submit a written or videotaped statement. If the nearest relative of a murder victim intends to testify before the Board, the case shall be processed as follows:

1. (No change.)

2. The victim input segment of the Board hearing shall be conducted, with the consent of the Department [or Commission], in the administrative area of the institution.

3.-4. (No change.)

5. Upon confirmation by the nearest relative of a murder victim of their appearance before the Board, the Board shall notify the Department [or Commission] of the identities of the person(s) who will appear before the Board on the scheduled hearing date.

6. The Board shall notify the nearest relative of a murder victim that appropriate personal identification is required by the Department [or Commission] in order to enter the institution.

7.-11. (No change.)

12. Upon the conclusion of the victim input segment of the Board hearing, the Board shall reconvene the hearing with the inmate present in the hearing room designated by the Department [or Commission]. In the

inmate segment of the Board hearing, the nearest relative of a murder victim shall not be present in the hearing room.

(m) (No change.)

(n) If notice pursuant to (h) above is received subsequent to the rendering of a decision certifying parole release, the appropriate Board member(s), Board panel, or the Board shall suspend the parole release date pursuant to N.J.A.C. 10A:71-5.1, pending the receipt of a written statement or the completion of a hearing pursuant to (j) above, and the submission of a report or videotape recording or a hearing has been conducted pursuant to (k) above. If it is the intent of the victim or the relative of a murder/manslaughter victim to submit a written statement, as evidenced by the notification to the Board pursuant to (h) above, the written statement must be submitted and received by the Board within 30 days of the date of the Board having received the initial notification of intent or the appropriate Board member(s), Board panel, or the Board may rescind the suspension of the parole release date.

1. Within 14 days of submission of a written statement, the report of the designated senior hearing officer or the videotape recording of the offered testimony or the completion of the hearing pursuant to (k) above, the Board member(s), Board panel, or Board shall:

i.-iii. (No change.)

iv. Notify the inmate and the Department [or Commission] in writing of its decision.

(o) (No change.)

(p) The provisions of this section, except for public notice required pursuant to N.J.A.C. 10A:71-3.8 and except for testifying before the Board panel and Board, shall be applicable to the cases of [juvenile and] county inmates.

(q)-(r) (No change.)

10A:71-3.49 Informational hearing

(a)-(r) (No change.)

(s) Upon receipt of an application by the Chairperson subsequent to the rendering of a decision certifying parole release, the appropriate Board members, Board panel, or the Board shall suspend the parole release date pursuant to N.J.A.C. 10A:71-5.1, pending the completion of the hearing(s) and the submission of a report(s).

1. Within 21 days of submission of the report(s), the Board member(s), Board panel, or the Board shall:

i.-iii. (No change.)

iv. Notify the interested party who submitted the application pursuant to (a) above, the inmate and the Department [or Commission] in writing of its decision.

(t) The provisions of this section, except for public notice required pursuant to N.J.A.C. 10A:71-3.8, shall be applicable to the cases of [juvenile and] county inmates.

10A:71-3.50 Conditions for parole release

(a) Release on a parole release date certified by Board members is conditioned upon:

1. The completion of a parole plan approved by the Board members certifying parole release and acceptable to the Division of Parole [or Commission]; [and]

2.-3. (No change.)

10A:71-3.54 Mandatory supervision cases

(a)-(h) (No change.)

(i) If a term of parole supervision imposed by a court pursuant to N.J.S.A. 2C:43-7.2 is revoked by the appropriate Board panel and the offender returned to custody for violation of a condition of supervision, the Board panel shall determine:

1. Whether the offender shall be required to serve the remainder of the term in custody and shall not be eligible for parole consideration on the remainder of the term; **or**

2. Whether the offender shall be required[, except as provided in (i)3 below,] to serve a term established pursuant to N.J.A.C. 10A:71-[7.17B]7.17 prior to being eligible for parole consideration[; or].

3. Whether the offender, if originally sentenced pursuant to N.J.S.A. 2C:47-1 et seq. and eligibility for parole consideration required the recommendation of the Special Classification Review Board, shall be

eligible for parole consideration pursuant to the provisions of N.J.A.C. 10A:71-7.19 or 7.19A, as appropriate.]

(j)-(o) (No change.)

SUBCHAPTER 4. APPEALS

10A:71-4.1 Appeals by inmates

(a) (No change.)

[(b) Any failure to grant parole to a juvenile inmate by a Board member shall be appealable to the juvenile Board panel, or any failure to grant parole by the juvenile Board panel shall be appealable to the Board provided one of the following criteria is met:

1. The Board member or juvenile Board panel failed to consider material facts indicating that the juvenile inmate, if released, will not cause injury to persons or substantial injury to property.

2. The Board member or juvenile Board panel's decision is contrary to written Board policy or procedure.

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 affected the decision.

4. A Board member participating in the deliberations or disposition of the case has failed to comply with the Board's professional code of conduct.]

[(c)] **(b)** Any conditions of parole or pre-parole requirements established by a Board member or a Board panel or affirmed by a Board panel pursuant to N.J.A.C. 10A:71-6.6 shall be appealable to the appropriate Board panel or the Board, respectively, provided one of the following criteria is met:

1.-2. (No change.)

3. The condition of parole or pre-parole requirement will not reasonably reduce the likelihood of recurrence of criminal [or delinquent] behavior.

4. (No change.)

Recodify existing (d) and (e) as **(c) and (d)** (No change in text.)

[(f)] **(e)** The specific application of Board schedules pursuant to N.J.A.C. 10A:71-3.3, 3.4, 3.21, [3.23, 3.24.] **or** 7.17[, 7.17A or 7.17B] shall be appealable to the Board or the appropriate Board panel, provided one of the following criteria is met:

1.-3. (No change.)

4. In the case of an institutional infraction considered pursuant to N.J.A.C. 10A:71-3.4, the inmate has been convicted and sentenced [or adjudicated delinquent and committed] for the specific incident [which] **that** resulted in the institutional infraction.

5. (No change.)

Recodify existing (g)-(j) as **(f)-(i)** (No change in text.)

(j) A denial of administrative parole release by a Board panel shall be appealable to the Board, provided one of the following criteria is met:

1. The Board panel failed to document that the inmate has been previously convicted of, adjudicated delinquent for, or is currently serving a sentence imposed for any crime enumerated at N.J.S.A. 2C:7-2.b, 2C:43-6.c or g, 2C:43-7.2.d, or 30:4-27.26.

2. The Board panel failed to document that the inmate has committed any prohibited acts required to be reported to the prosecutor pursuant to rules promulgated by the Commissioner during the current period of incarceration.

3. The Board panel failed to document that the inmate has committed any serious disciplinary infraction, designated in rules promulgated by the Commissioner as a prohibited act that is considered to be the most serious and results in the most severe sanctions, within the previous two years.

4. The Board panel failed to document that the inmate has not completed relevant rehabilitation programs, as determined by the Department and the Board, available at the correctional facility.

5. The Board panel failed to document that the inmate has not applied for relevant rehabilitation programs.

6. The Board panel failed to document that the inmate was not denied access to relevant rehabilitation programs due to circumstances beyond the inmate's control including, but not limited to, capacity limitations or exclusionary policies of these programs.

SUBCHAPTER 5. SUSPENDING OR RESCINDING A PAROLE RELEASE DATE

10A:71-5.1 Suspension of a parole release date

(a) The Board, the appropriate Board panel, the Chairperson, or a designated representative, may suspend a parole release date in accordance with the provisions of this subchapter. Any suspension of a parole release date shall act to prohibit the release of the inmate by the Department [or Commission] on the original parole release date, unless such suspension is subsequently vacated.

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

10A:71-5.2 Approval and acceptance of parole plan

(a) (No change.)

(b) If a parole plan has not been accepted by the appropriate supervisory agency, the inmate's parole release date shall be suspended by a designated representative of the Board [or Commission] pending acceptance of a parole plan. If such suspension exceeds 60 days from the parole release date, the Division of Parole [or the Commission, as appropriate,] shall advise the Board in writing as to the reasons for the failure to approve or accept a parole plan.

(c) Upon the Board receiving notification from the Division of Parole [or the Commission, as appropriate,] of the failure to approve or accept a parole plan, the Board member, or members, certifying parole release shall review the inmate's case, evaluate the reasons for the failure to approve or accept a parole plan, and determine if further action is appropriate.

10A:71-5.7 Parole rescission hearing; notice of hearing

(a) Upon the initiation of the rescission hearing process, the inmate shall be provided with written notification of the reasons for the hearing, the purpose of the hearing, and the information and material to be considered at the hearing, except information classified as confidential pursuant to N.J.A.C. 10A:71-2.2 or the rules of the Department [or Commission].

(b) [Such notification] **Notification pursuant to (a) above** shall inform the inmate of the following rights to which he or she shall be entitled at the rescission hearing:

1.-6. (No change.)

7. The right to disclosure of adverse information, except as provided [in] **at** N.J.A.C. 10A:71-2.2 or the rules [and regulations] of the Department [or Commission].

(c) (No change.)

10A:71-5.8 Parole rescission hearing; notice of decision

(a) (No change.)

(b) If the rescission hearing is conducted by a hearing officer, the hearing officer shall prepare a written summary of the rescission hearing.

1. Such hearing summary shall be forwarded to the Board or appropriate Board panel, and a copy of the summary shall be forwarded [to the inmate's attorney or directly] to the inmate [where he or she has appeared pro se], in order that the inmate [or his or her attorney] may object or comment on the hearing summary by submitting written exceptions to the hearing summary. Such exceptions shall be forwarded to the Board, or Board panel, within 14 days after the receipt of the hearing summary. The provisions of N.J.A.C. 10A:71-2.2 shall be applicable to any hearing summary provided to the inmate.

2.-3. (No change.)

(c) The Board, or Board panel, shall notify the inmate and the Department [or Commission] in writing of its decision as to rescission of parole within 21 days after the disposition of the case.

(d) (No change.)

SUBCHAPTER 6. SUPERVISION

10A:71-6.1 Administration

(a) Except as otherwise provided pursuant to the Interstate Compact for Adult Offender Supervision, [(N.J.S.A. 2A:168-26 et seq.)], [the Interstate Compact on Juveniles (N.J.S.A. 9:23-1 et seq.)] or the Witness Security Reform Act, [(18 U.S.C. [§§3521] §§ 3521 et seq.)], all [adult and juvenile] parolees released from an adult correctional facility shall at all times be under the supervision of the Division of Parole [and juvenile

parolees released from a juvenile correctional facility shall at all times be under the supervision of the Commission] in accordance with the policies and rules of the Board.

(b) (No change.)

[(c) In the case of a juvenile, supervision shall also continue during the term of post incarceration imposed pursuant to N.J.S.A. 2A:4A-44(d)5 unless the juvenile Board panel determines that post incarceration supervision should be revoked and the juvenile returned to custody pursuant to the provisions of N.J.S.A. 30:4-123.59 to 30:4-123.65 and N.J.A.C. 10A:71-7.]

10A:71-6.3 Certificate of parole

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

(c) Responsibility for the delivery of the certificates of parole shall rest with the Director of Parole[,] or a designated representative of the Board[, or a designated representative of the Commission, as appropriate].

(d)-(g) (No change.)

10A:71-6.4 Conditions of parole

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

1. (No change.)

2. Report in person to the District Parole Supervisor, or his or her designated representative, [or the designated representative of the Commission,] immediately after the offender is released on parole from the institution, unless the offender has been given other written instructions by a designated representative of the Board [or Commission], and the offender is to report thereafter as instructed by the District Parole Supervisor, or his or her designated representative[, or the designated representative of the Commission].

3. Notify the assigned parole officer no later than the next business day **after any contact (verbal, physical, written, or electronic) with a law enforcement agency**, after any arrest, or after being served with, or receiving, a complaint or summons[, and after accepting any pre-trial release including bail].

4. Report in person to the assigned parole officer no later than the next business day after accepting any pre-trial release, including bail, or after being released from a county or State correctional facility.

[4.] **5.** 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., **2C:12-10.1, 2C:12-10.2**, or the provisions of 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.] **6.** 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., **2C:12-10.1, 2C:12-10.2**, or the provisions of 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.] **7.** 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., **2C:12-10.1**, or the provisions of similar Federal or state statutes.

Recodify existing 7.-9. as **8.-10.** (No change in text.)

[10.] **11.** Refrain from owning or possessing any [firearm, as defined in N.J.S.A. 2C:39-1.f, for any purpose.];

i. Firearm, as defined [in] at N.J.S.A. 2C:39-1.f[.], for any purpose[.], **whether or not the firearm is operational;**

ii. Imitation firearm, as defined at N.J.S.A. 2C:39-1.v, for any purpose; or

iii. Firearm ammunition.

Recodify existing 11.-19. as **12.-20.** (No change in text.)

21. Notify the assigned parole officer no later than the next business day of any contact with a representative of a child protection service agency including, but not limited to, the New Jersey Department of Child Protection and Permanency.

(b) (No change.)

[(c) In the case of juvenile inmates, the certificate of parole shall contain the following general condition of parole, in addition to those conditions contained in (a) above.

1. You are required to attend school on a full-time basis if you are under 16 years of age.]

[(d)] (c) (No change in text.)

[(e)] (d) Based on the prior history of the inmate or information provided by a victim or a member of the family of a murder/manslaughter victim, the Board members certifying parole release may impose any other specific conditions of parole deemed reasonable in order to reduce the likelihood of recurrence of criminal [or delinquent] behavior. In addition, the Board members certifying parole release may, giving due regard to a victim's request, impose a special condition that the parolee have no contact with the victim, which special condition may include, but need not be limited to, restraining the parolee from entering the victim's residence, place of employment, business, or school, and from harassing or stalking the victim or the victim's relatives in any way.

[(f)] (e) (No change in text.)

[(g)] (f) The assigned parole officer shall confirm that the notification required by the specific condition [under (f)] at (e) above has been made to the employer and is authorized to make the appropriate notification if the parolee fails to do so.

[(h)] (g) (No change in text.)

[(i)] (h) Additional special conditions may be imposed by the District Parole Supervisor, [an Assistant District Parole Supervisor,] or [the] **his or her** designated representative, [of the District Parole Supervisor or the designated representative of the Commission] when[, in the opinion of] the District Parole Supervisor, [an Assistant District Parole Supervisor,] or [the] **his or her** designated representative [of the District Parole Supervisor, or the designated representative of the Commission,] **has a reasonable belief that** such conditions would reduce the likelihood of recurrence of criminal [or delinquent] behavior.

1.-3. (No change.)

4. An additional special condition imposed pursuant to this subsection shall remain in effect until modified or vacated by the District Parole Supervisor, [an Assistant District Parole Supervisor,] or [the] **his or her** designated representative, [of the District Parole Supervisor or the designated representative of the Commission] or modified or vacated by the Board panel pursuant to N.J.A.C. 10A:71-6.6.

[(j)] (i) A District Parole Supervisor, [an Assistant District Parole Supervisor,] or [the] **his or her** designated representative, [of the District Parole Supervisor or the designated representative of the Commission] may, under the circumstances specified [in (f)] at (e) above, impose as a special condition that the parolee notify an employer or intended employer of his or her parole status and criminal record. Imposition of the special condition shall be in accordance with the provisions [of (i)] at (h) above. However, the special condition shall not be deemed effective until affirmed by the appropriate Board panel.

[(k)] (j) If a parolee owes an assessment, fine, penalty, lab fee, or restitution, the District Parole Supervisor [or the designated representative of the Commission, as appropriate,] shall, unless otherwise ordered by the Board or members certifying parole release or the sentencing court, be responsible for specifying a reasonable schedule for payment of such assessment, fine, penalty, lab fee, or restitution.

[(l)] (k) Except as provided [in (m)] at (l) below, or unless otherwise directed by the Board panel or Board, a specific condition imposed in accordance with [(e)] (d) above may be modified or vacated by the District Parole Supervisor [or designated representative of the Commission] if the circumstances of the parolee's case warrant such action.

[(m)] (l) The following specific conditions imposed in accordance with [(e)] (d) above may only be modified or vacated by the Board panel or Board:

1.-3. (No change.)

10A:71-6.5 Restitution

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

(c) Upon being notified by the sentencing court as to amount of restitution set, the Board shall notify the inmate, or, if released on parole, the parolee and the District Parole Supervisor [or the designated representative of the Commission] of the amount of restitution.

10A:71-6.6 Modification of conditions

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

(c) Such application shall be submitted by the District Parole Supervisor [or the designated representative of the Commission] at the request of either the parolee or the parolee's parole officer and shall contain the recommendation of the officer and the District Parole Supervisor [or the designated representative of the Commission, as appropriate,] accompanied by supporting documentation.

(d)-(e) (No change.)

(f) The Board panel shall consider such application and notify the District Parole Supervisor [or the designated representative of the Commission, as appropriate,] in writing of the decision within 45 days of the receipt of the application.

(g) The District Parole Supervisor [or the designated representative of the Commission, as appropriate,] shall notify the parolee in writing of any modification or vacation of a condition of parole and shall cause a written record of such modification or vacation to be made in the parolee's case file.

10A:71-6.9 Discharge from parole

(a) The appropriate Board panel may grant any parolee a complete discharge from parole prior to the expiration of the maximum term for which he or she was sentenced, provided that:

1.-2. (No change.)

3. The parolee has made full payment of any [assessment,] fine[, penalty, lab fee] or restitution [or] **and** the parolee has **made full payment or**, in good faith, established a satisfactory payment schedule **for any assessment, penalty, or lab fee**; or

4. In the opinion of the Board panel, continued supervision is not warranted or appropriate based upon a review of the facts and circumstances considered pursuant to N.J.A.C. 10A:71-7.10, 7.11, 7.12, 7.16, and 7.17[, 7.17A or 7.17B].

(b) The Board panel will consider requests for discharge after the following periods of parole supervision have been completed:

1. In the case of [adult] parolees serving life sentences, after a period of seven years; provided the parolee has been under [annual] **advanced** supervision status for the final two years.

2. Except as provided **at (b)1** above, [in the case of] juvenile parolees for murder and manslaughter and] in the case of adult parolees serving sentences for murder, manslaughter, kidnapping, aggravated sexual assault (including attempts), robbery first degree, arson, aggravated assault second degree, and sale or distribution or sale of controlled dangerous substances and possession of controlled dangerous substances with intent to distribute, after a period of two years, provided the parolee is under advanced supervision status.

3. (No change.)

4. In the case of [juvenile and] young adult parole absconders, after a period of three years from the date the parolee became an absconder[.]; provided the parolee has no known arrests and provided the original maximum sentence has expired.

5.-6. (No change.)

(c) The provisions of (a) and (b) above shall not preclude the appropriate Board panel from granting a [juvenile or] county parolee a complete discharge from parole prior to the expiration of the maximum term for which he or she was sentenced when the appropriate Board panel determines that good cause exists to grant such a discharge.

(d) If the District Parole Supervisor [or the designated representative of the Commission, as appropriate,] determines that a parolee has made exceptional progress while on parole supervision, the District Parole Supervisor [or the designated representative of the Commission, as appropriate,] may request that a waiver of the time periods [above] **in this section** be granted by the appropriate Board panel. Such waiver may be granted by the appropriate Board panel for good cause.

(e) When a parolee has completed two years of parole supervision and thereafter on an annual basis, the parole officer and the District Parole Supervisor [or the designated representative of the Commission, as appropriate,] shall review the case to determine whether good reason exists to require continued supervision.

1. If the District Parole Supervisor [or the designated representative of the Commission, as appropriate,] determines at such review that good reason exists to require continued supervision, and unfavorable discharge determination shall be made, and a statement setting forth such determination and the reasons therefor shall be entered on the chronological supervision report.

2. If the District Parole Supervisor [or the designated representative of the Commission, as appropriate,] determines that good reason does not exist to require continued supervision and that the parolee qualifies for discharge pursuant to (a) above, a favorable discharge recommendation shall be submitted in writing to the appropriate Board panel. The discharge recommendation shall include the basis for the recommendation and a full explanation as to the adjustment of the parolee while under supervision. A copy of all chronological supervision reports shall be submitted with the discharge recommendation to the appropriate Board panel.

3. The appropriate Board panel shall review requests for discharge and advise the District Parole Supervisor [or the designated representative of the Commission, as appropriate,] of its decision within 45 days of receipt of the recommendation.

(f)-(h) (No change.)

(i) A term of post-incarceration supervision imposed pursuant to N.J.S.A. 2A:4A-44(d)5 may be terminated by the juvenile Board panel if the juvenile has made a satisfactory adjustment in the community while on parole or under such supervision, if continued supervision is not required and if the juvenile has made full payment of any fine or restitution.]

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, [(N.J.S.A. 2A:168-26 et seq.)] and the Interstate Compact on juveniles (N.J.S.A. 9:23-1 et seq.)] (**Interstate Compact**), 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) If an inmate has been granted parole and seeks to reside in another jurisdiction, the inmate shall notify institutional parole staff and complete the documents required by statutory provisions and the Interstate Compact. Institutional parole staff shall forward the documents required by statutory provisions and the Interstate Compact to the Office of Interstate Services.

(b) (c) If a parolee seeks to transfer formal supervision of his or her case to another jurisdiction, the parolee shall notify his or her parole officer and complete the documents required by statutory or regulatory provisions and the Interstate Compact. The District Parole Office shall forward the documents required by statutory and regulatory provisions and the Interstate Compact to the Office of Interstate Services.

(c) The District Parole Office or the designated representative of the Commission, as appropriate, shall forward to the Board the completed required documents, a copy of an up-to-date chronological supervision report on the parolee's case, an assessment of the parolee's community adjustment, a copy of the parole certificate and a copy of any other document deemed relevant to the parolee's case.]

(d) Upon receipt of the material submitted pursuant to **(b) and (c)** above, the [appropriate Board panel] **Office of Interstate Services** shall review the **inmate's or** parolee's case and determine whether the **inmate or** parolee is a suitable candidate for the transfer of parole supervision to the designated out-of-State jurisdiction.

(e) If the [Board panel] **Office of Interstate Services** determines that **the request for** transfer of the supervision of the **inmate's or** parolee's case to an out-of-State jurisdiction [is appropriate] **complies with statutory and regulatory provisions and the Interstate Compact**, the [Board panel shall submit the case materials to the] Office of Interstate

Services [or the Commission, as appropriate. The Office of Interstate Services or the Commission, as appropriate, pursuant to the relevant statutory and regulatory provisions.] shall forward the [parolee's] request for transfer of parole supervision to the designated out-of-State jurisdiction for investigation.

(f) Upon [the Board panel receiving] **receipt of** the completed community investigation by the out-of-State jurisdiction, the [Board panel shall review the community plan approved by the out-of-State jurisdiction. If the community plan is deemed acceptable by the Board panel, the Board panel shall notify in writing the Office of Interstate Services or the Commission, as appropriate, and the District Parole Office or the designated representative of the Commission, as appropriate, that supervision of the parolee's case may be transferred to the out-of-State jurisdiction. The] Office of Interstate Services [or the Commission, and/or the District Parole Office or the designated representative of the Commission, as appropriate,] shall notify **institutional parole staff or the [parolee] District Parole Office, as applicable,** of the [Board panel's] **out-of-State jurisdiction's** decision [and issue the necessary travel documents].

[(g) The Board panel shall not authorize the transfer of parole supervision to an out-of-State jurisdiction when:

1. The out-of-State jurisdiction has determined not to accept supervision of the parolee's case; or
2. The parole plan approved by the out-of-State jurisdiction is substantially different from the original parole plan submitted and reviewed by the Board panel and the alternate parole plan is not deemed appropriate by the Board panel.

(h) If the Board panel upon reviewing the parolee's case pursuant to (d), (f) or (g) above determines to deny authorization for the transfer of the parolee's case to an out-of-State jurisdiction, the Board panel shall notify in writing the Office of Interstate Services or the Commission, as appropriate, and the District Parole Office or the designated representative of the Commission, as appropriate, of the determination. The District Parole Office or the designated representative of the Commission, as appropriate, shall notify the parolee of the determination of the Board panel.]

1. In the case of an inmate, the institutional parole staff shall notify the inmate of the out-of-State jurisdiction's decision. If the out-of-State jurisdiction has determined not to accept supervision of the parolee, the institutional parole staff shall interview the offender for an alternate plan.

2. In the case of a parolee, the assigned parole officer shall notify the parolee of the out-of-State jurisdiction's decision.

(g) If the out-of-State jurisdiction accepted supervision of the inmate or parolee, the Office of Interstate Services and/or the District Parole Office shall issue the necessary travel documents.

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.-2. (No change.)

3. Notify the assigned parole officer no later than the next business day **after any contact (verbal, physical, written, or electronic) with a law enforcement agency,** after any arrest, **or** after being served with, or receiving, a complaint or summons[, and after accepting any pre-trial release including bail];

4. Report in person to the assigned parole officer no later than the next business day after accepting any pre-trial release, including bail, or after being released from a county or State correctional facility;

[4.] **5.** 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., **2C:12-10.1, 2C:12-10.2,** or the provisions of 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.] **6.** 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., **2C:12-10.1, 2C:12-10.2,** or the provisions of 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.] **7.** 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., **2C:12-10.1,** or the provisions of similar Federal or state statutes;

Recodify existing 7.-9. as **8.-10.** (No change in text.)

[10.] **11.** Refrain from owning or possessing any [firearm, as defined in N.J.S.A. 2C:39-1f, for any purpose];

i. Firearm as defined at N.J.S.A. 2C:39-1.f for any purpose, whether or not the firearm is operational;

ii. Imitation firearm as defined at N.J.S.A. 2C:39-1.v for any purpose; or

iii. Firearm ammunition;

Recodify existing 11.-22. as **12.-23.** (No change in text.)

[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. "Chat room," as used in this paragraph, means any Internet website through which users have the ability to communicate via messaging and which allows messages to be visible to all users or to a designated segment of users.

ii. "Internet website or application," as used in (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)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. "Social networking service," as used in this paragraph, includes any Internet website or application, chat room, or peer-to-peer network, that:

(1) Contains profile pages of the members of the social networking service that include the names or nicknames of such members, photographs placed on the profile pages by such members, or any other personal or personally identifying information about such members and links to other profile pages on social networking service of friends or associates of such members that can be accessed by other members of or visitors to the social networking service;

(2) Provides members of or visitors to such social networking service the ability to leave messages or comments on the profile page that are visible to all or some visitors to the profile page;

(3) Provides members of or visitors to the social networking service the ability to engage in direct or real time communication with other users, such as a chat room or instant messenger; or

(4) Provides a form of electronic mail for members or visitors to the social networking service. For the purpose of this definition, social networking service does not include the use of e-mail exclusively for person to person communication.]

24. Notify the assigned parole officer no later than the next business day of any contact with a representative of a child protection service agency including, but not limited to, the New Jersey Department of Child Protection and Permanency.

(c) If the victim(s) of an offense specified [in] at (a) above is a minor, an offender serving a special sentence of community supervision for life shall, in addition to the conditions specified [in] at (b) above, be subject to the following conditions. The offender shall:

1.-2. (No change.)

3. Refrain from residing with any minor without the prior approval of the District Parole Supervisor, or **his or her** designated representative, or **the appropriate court**. Staying overnight at a location where a minor is present shall constitute residing with any minor for the purpose of this condition.

(d)-(j) (No change.)

(k) Additional special conditions may be imposed by the District Parole Supervisor, [an Assistant District Parole Supervisor, or the] **or his or her** designated representative of the District Parole Supervisor [or the designated representative of the Commission] when [it is the opinion] **there is a reasonable belief** that such conditions would reduce the likelihood of recurrence of criminal behavior. The offender and the Board shall be given written notice upon the imposition of such conditions.

1.-4. (No change.)

(l)-(n) (No change.)

10A:71-6.12 Parole supervision for life

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

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

1.-2. (No change.)

3. Notify the assigned parole officer no later than the next business day **after any contact (verbal, physical, written, or electronic) with a law enforcement agency**, after any arrest, or after being served with or receiving a complaint or summons[, and after accepting any pre-trial release including bail];

4. Report in person to the assigned parole officer no later than the next business day after accepting any pre-trial release, including bail, or after being released from a county or State correctional facility;

[4.] **5.** 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., **2C:12-10.1, 2C:12-10.2**, or the provisions of 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.] **6.** 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., **2C:12-10.1, 2C:12-10.2**, or the provisions of 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.] **7.** 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., **2C:12-10.1**, or the provisions of similar Federal or state statutes;

Recodify existing 7.-9. as **8.-10.** (No change in text.)

[10.] **11.** Refrain from owning or possessing any [firearm, as defined in N.J.S.A. 2C:39-1f, for any purpose];

i. Firearm, as defined at N.J.S.A. 2C:39-1.f for any purpose, whether or not the firearm is operational;

ii. Imitation firearm, as defined at N.J.S.A. 2C:39-1.v for any purpose; or

iii. Firearm ammunition;

Recodify existing 11.-23. as **12.-24.** (No change in text.)

[24.] **25.** Pursuant to N.J.S.A. 30:4-123.88, the State Parole Board, on at least an annual basis, may administer a polygraph examination to all offenders serving a special sentence of parole supervision for life. You shall submit to a polygraph examination as directed by an Assistant

District Parole Supervisor, District Parole Supervisor, or Supervising Parole Officer; [and]

[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. "Chat room," as used in this paragraph, means any Internet website through which users have the ability to communicate via messaging and which allows messages to be visible to all users or to a designated segment of users.

ii. "Internet website or application," as used in (d)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 (d)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. "Social networking service," as used in this paragraph, includes any Internet website or application, chat room, or peer-to-peer network, that:

(1) Contains profile pages of the members of the social networking service that include the names or nicknames of such members, photographs placed on the profile pages by such members, or any other personal or personally identifying information about such members and links to other profile pages on social networking service of friends or associates of such members that can be accessed by other members of or visitors to the social networking service;

(2) Provides members of or visitors to such social networking service the ability to leave messages or comments on the profile page that are visible to all or some visitors to the profile page;

(3) Provides members of or visitors to the social networking service the ability to engage in direct or real time communication with other users, such as a chat room or instant messenger; or

(4) Provides a form of electronic mail for members or visitors to the social networking service. For the purpose of this definition, social networking service does not include the use of e-mail exclusively for person to person communication.]

26. Waive extradition to the State of New Jersey from any jurisdiction in which the offender is apprehended and detained for violation of parole supervision for life status and not contest any effort by any jurisdiction to return the offender to the State of New Jersey[.]; **and**

27. Notify the assigned parole officer no later than the next business day of any contact with a representative of a child protection service agency including, but not limited to, the New Jersey Department of Child Protection and Permanency.

(e) If the victim(s) of an offense specified [in] at (a) above is a minor, an offender serving a special sentence of parole supervision for life shall, in addition to the conditions specified [in] at (d) above, be subject to the following conditions. The offender shall:

1.-2. (No change.)

3. Refrain from residing with any minor without the prior approval of the District Parole Supervisor, or **his or her** designated representative, or **the appropriate court**. Staying overnight at a location where a minor is present shall constitute residing with any minor for the purpose of this condition.

(f)-(m) (No change.)

(n) Additional special conditions may be imposed by the District Parole Supervisor, [an Assistant District Parole Supervisor, or the] **or his or her** designated representative, [of the District Parole Supervisor] when [it is the opinion] **there is a reasonable belief** that such conditions would reduce the likelihood of recurrence of criminal behavior. The offender and the Board shall be given written notice upon the imposition of [such conditions] a special condition.

1.-4. (No change.)

(o)-(s) (No change.)

(t) Upon the completion of the time period established pursuant to (p) or (q) above, the offender shall be released from confinement unless the offender is serving a sentence of incarceration for another crime. **Prior to the offender being released from confinement, the offender shall be served with a written certificate pursuant to (i), (k), and (l) above.** Upon the offender being released from confinement the offender shall remain under parole supervision for life.

(u)-(v) (No change.)

10A:71-6.14 Parole compliance credits

(a) Pursuant to N.J.S.A. 30:4-123.55.e, any offender granted parole, except an offender serving a parole term pursuant to N.J.S.A. 2C:43-6.4 or 2C:43-7.2, shall have the parole term reduced by parole compliance credits at a rate of one day for every six days of parole supervision the offender has completed.

(b) Credits awarded pursuant to (a) above shall cease to accrue upon the issuance of a warrant by the Board and initiation of parole revocation proceedings. Any credits earned pursuant to (a) above shall be forfeited upon the revocation of parole.

(c) Any compliance credits awarded pursuant to (a) above based on actions for which parole revocation proceedings were initiated, but did not result in a revocation of parole and return to custody, shall be forfeited upon a determination by the Board panel or Board that the actions for which compliance credits were awarded violated a condition of parole.

SUBCHAPTER 7. REVOCATION OF PAROLE

10A:71-7.2 Issuance of warrants

(a) The parole officer shall request that a parole violation warrant be issued when the parole officer has probable cause to believe that the parolee has seriously or persistently violated parole conditions by conduct other than new criminal charges [or new acts of delinquency,] and where evidence indicates that the parolee poses a danger to the public safety or may not appear at revocation proceedings.

(b) In accordance with the provisions of N.J.S.A. 30:4-123.62, the Director of Parole, Supervising Parole Officers, the Supervisor of the Office of Interstate Services, District Parole Supervisors, and the designated [supervisory] representatives of the [Commission] **District Parole Supervisors** are hereby authorized to issue warrants on behalf of the Chairperson.

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

(e) If a parolee has been sentenced to a custodial term or sentenced to a custodial term as a condition of probation for a crime committed while on parole supervision [or in the case of a juvenile parolee adjudicated delinquent for an act which, if committed by an adult, would constitute a crime] and if a parole warrant has not been previously issued, a parole warrant shall be issued by the appropriate individual and filed against the parolee at the institution in which the parolee is confined.

10A:71-7.3 Motion for accelerated revocation

(a) Upon the arrest of a parolee for an alleged offense committed while on parole [or upon the detention of a juvenile for an alleged act of delinquency committed while on parole], it shall be the responsibility of the local police department to immediately notify the prosecuting authority and the parole officer of the fact of the parolee's arrest. Notification to the prosecutor may be restricted pursuant to instructions from the prosecutor's office.

(b) If the prosecuting authority[,] or the Director of Parole, or his or her designee, [or the Commission] determines that the charges against the parolee are of a serious nature and the parolee otherwise poses a danger to public safety, the prosecuting authority[,] or the Director of Parole, or his or her designee, [or the Commission] may apply, in writing, to the Chairperson, or his or her designated representative, for the prompt initiation of revocation proceedings.

1.-2. (No change.)

3. If the application is submitted by the Director of Parole, or his or her designee [or the Commission], such application shall also include an up-to-date chronological supervision report on the parolee's case.

(c) Upon receipt of an application from a prosecuting authority pursuant to (b) above, the Chairperson, or his or her designee, shall direct

the Division of Parole [or the Commission] to submit, within three days, for consideration, an up-to-date chronological supervision report on the parolee's case.

(d) Upon review of the application and chronological supervision report, a determination shall be made by the Chairperson and a designated Board member or a designated two-member Board panel as to whether the charges against the parolee are of a serious nature, whether the parolee otherwise poses a danger to public safety, and whether the revocation process shall be initiated. The Chairperson, or his or her designated representative, shall advise the prosecuting authority[,] or the Director of Parole, or his or her designee, [or the Commission] and the District Parole Supervisor [or the designated representative of the Commission, as appropriate,] as to whether the revocation process shall or shall not be initiated.

(e)-(h) (No change.)

10A:71-7.6 Designation of preliminary hearing officers

Preliminary hearings shall be conducted by a hearing officer appointed by the Chairperson, or his or her designated representative.

10A:71-7.7 Preliminary hearing; notice of hearing

(a) It shall be the responsibility of the parole officer[,] or the District Parole Supervisor [or the designated representative of the Commission, as appropriate,] to give written notice to the parolee of the time, date, and place of the preliminary hearing at least three days prior to the preliminary hearing unless the parolee waives such notice.

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

10A:71-7.9 Status of parolee pending parole revocation hearing

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

(c) When the hearing officer determines that probable cause exists to believe that the parolee has seriously or persistently violated conditions of parole, it shall be the responsibility of the hearing officer to determine whether the parolee shall be taken into custody pursuant to N.J.A.C. 10A:71-7.2, continued in custody, or released from custody pending [the revocation hearing] **Board panel review.**

1.-2. (No change.)

(d) 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 (c) above unless the hearing officer determines, based on the review of the hearing record and the review of the Board's records on the parolee, that the parolee does not pose a danger to the public safety. If the warrant is authorized to be withdrawn, the hearing officer shall [summarize in the Notice of Decision issued] **include in the summary report prepared** pursuant to N.J.A.C. 10A:71-7.10, the basis for the determination that the parolee does not pose a danger to the public safety.

(e)-(f) (No change.)

10A:71-7.10 Record of the preliminary hearing

(a) The hearing officer shall record the preliminary hearing by an electronic recording device. If the electronic recording device is not operational, the hearing shall proceed only upon the parolee waiving the electronic recording of the hearing. The waiver shall be in writing and signed by the parolee and shall be made a part of the parolee's records. If the parolee does not wish to proceed without the electronic recording of the hearing, the hearing shall be rescheduled within 14 days.

(b) Within seven days of the date of the preliminary hearing, the hearing officer shall prepare a written summary that shall summarize the preliminary hearing and contain the reasons for the hearing officer's opinion as to whether probable cause does or does not exist and the reason(s) therefor.

1. The hearing summary shall be forwarded to the appropriate Board panel.

2. A copy of the hearing summary shall be forwarded to the parolee's attorney, or directly to the parolee where he or she has appeared pro se, in order that the parolee or his or her attorney may

object to, or comment on, the hearing summary by submitting written exceptions to such summary. Such exceptions shall be forwarded to the appropriate Board panel within seven days after receipt of the hearing officer's hearing summary. A copy of the hearing summary shall also be forwarded to the District Parole Supervisor.

10A:71-7.11 Board panel action pending revocation hearing

(a) The appropriate Board panel shall review the hearing officer's hearing summary and any written exceptions within 15 days of the date of the preliminary hearing. After consideration of the hearing summary and any written exceptions thereto, the Board panel shall determine whether probable cause exists to believe that the parolee has seriously or persistently violated conditions of his or her parole and whether revocation of parole is desirable. 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. If probable cause does not exist, the Board panel shall authorize the release of the parolee, if in custody, and may modify the conditions of parole or establish appropriate special parole conditions.

2. If probable cause does exist, the parolee shall be continued in custody or taken into custody only where, in the opinion of the Board panel, the parolee represents a danger to public safety or where the parolee may not appear at the revocation hearing.

(b) Within 21 days of the preliminary hearing, the appropriate Board panel shall issue a written Notice of Decision to the parolee and the parolee's attorney (if the parolee was represented by an attorney), the District Parole Supervisor, and the Department.

(c) Such Notice of Decision shall consist of:

1. The decision of the Board panel; and

2. The particular reasons for the decision and the facts relied upon, except information classified as confidential pursuant to N.J.A.C. 10A:71-2.2.

10A:71-7.12 Parole revocation hearing

(a) A parole revocation hearing shall be conducted when:

1. (No change.)

2. The parolee has been convicted of a crime committed while on parole [or in the case of a juvenile parolee adjudicated delinquent for an act which, if committed by an adult, would constitute a crime].

(b) A parole revocation hearing may be conducted when the parolee has been convicted of a disorderly persons offense committed while on parole [or in the case of a juvenile parolee adjudicated delinquent for an act which, if committed by an adult, would constitute a disorderly persons offense].

(c) If the parolee has not been convicted of a crime committed while on parole [or in the case of a juvenile parolee not adjudicated delinquent for an act which, if committed by an adult, would constitute a crime], the purpose of the revocation hearing shall be to determine:

1.-2. (No change.)

(d) If the parolee has been convicted of a crime committed while on parole [or in the case of a juvenile parolee adjudicated delinquent for an act which, if committed by an adult, would constitute a crime], the purpose of the revocation hearing shall be to determine whether, by clear and convincing evidence, good cause exists why the parolee should not be returned to confinement.

(e) (No change.)

10A:71-7.13 Revocation hearing; scheduling

(a) Except as provided [herein] in this subchapter, 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,] or county correctional[, or juvenile] facility[,] within 60 days of the date of sentence or commitment.

(b) (No change.)

(c) If the parolee requests a postponement of the revocation hearing and the parolee is currently in custody, such postponement shall be granted by the [hearing officer] Board panel for good cause. Such request shall be made in writing and the [hearing officer] Board panel shall

record such request and the determination of the [hearing officer] Board panel in the parolee's case record.

(d)-(e) (No change.)

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[, 7.17A, or 7.17B].

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

10A:71-7.16 Record of the revocation hearing

(a) (No change.)

(b) [The] Within seven days of the date of the revocation hearing, the hearing officer shall prepare a written summary, which shall summarize the revocation hearing and contain the hearing officer's opinion as to whether the alleged violation(s) has been substantiated and the reason(s) [therefore] therefor.

1. (No change.)

2. A copy of the hearing summary shall be forwarded to the parolee's attorney or directly to the parolee where he or she has appeared pro se in order that the parolee, or his or her attorney, may object to, or comment on, the hearing summary by submitting written exceptions to such summary. Such exceptions shall be forwarded to the appropriate Board panel within seven days after receipt of the hearing officer's hearing summary. A copy of the hearing summary shall also be forwarded to the District Parole Supervisor [or the designated representative of the Commission, as appropriate].

(c) (No change.)

10A:71-[7.17B]7.17 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[,] and 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. Failure to report to the District Parole Supervisor, or his or her designated representative, provided that such parolee is declared by the District Parole Supervisor [or the designated representative of the Commission, as appropriate,] to be missing from parole supervision;

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., 2C:12-10.1, 2C:12-10.2, or the provisions of 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., **2C:12-10.1**, **2C:12-10.2**, or the provisions of 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 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., **2C:12-10.1**, or the provisions of similar Federal or state statutes;

v. Owning or possessing any firearm, as defined [in] **at** N.J.S.A. 2C:39-1f**1.f**, for any purpose, **whether or not the firearm is operational**;

vi. **Owning or possessing any imitation firearm, as defined at N.J.S.A. 2C:39-1.v, for any purpose;**

vii. **Owning or possessing any firearm ammunition;**

Recodify existing vi.-vii. as **viii.-ix.** (No change in text.)

[viii.] x. Failure to comply with any special condition of parole imposed pursuant to N.J.A.C. 10A:71-6.4[(e)]**(d)** or [(f)] **(e)**.

(b) The future parole eligibility date established pursuant to (a)3 above may be decreased or increased by up to three months when, in the opinion of the two-member Board panel pursuant to [(m)] **(k)** or [(n)] **(l)** below, the circumstances of the parole violation and the characteristics and past record of the parolee warrant such adjustment.

(c) Except as provided in this section, upon revocation of parole, an adult inmate shall serve eight months[,] **and** a young adult inmate shall serve six months[, and a juvenile inmate shall serve four months], if the inmate has violated parole by failing to obey all laws and ordinances, by non-criminal conduct, or any parole condition not specified [under] **at** (a)3 above.

(d) The future parole eligibility date established pursuant to (c) above may be decreased or increased by up to three months in the case of an adult inmate or by up to two months in the case of a young adult [or juvenile inmate] when, in the opinion of a two-member Board panel pursuant to [(m)] **(k)** or [(n)] **(l)** below, the circumstances of the parole violation and the characteristics and past record of the parolee warrant such adjustment.

(e) Upon revocation of parole for the commission of a crime, an adult inmate:

1. Who has committed a fourth degree crime shall serve not less than eight nor more than 12 months, except as provided [in] **at** (f) and [(o)] **(m)** below and N.J.A.C. 10A:71-3.2;

2. Who has committed a third degree crime shall serve not less than 12 nor more than 16 months, except as provided [in] **at** (f) and [(o)] **(m)** below and N.J.A.C. 10A:71-3.2;

3. Who has committed a second degree crime shall serve not less than 16 nor more than 28 months, except as provided [in] **at** (f) and [(o)] **(m)** below and N.J.A.C. 10A:71-3.2;

4. Who has committed a first degree crime shall serve not less than 28 nor more than 48 months, except as provided [in] **at** (f) and [(o)] **(m)** below and N.J.A.C. 10A:71-3.2;

5. Who has committed the crimes of murder or kidnapping shall serve not less than four years, eight months nor more than eight years, four months, except as provided [in] **at** (f) and [(o)] **(m)** below and N.J.A.C. 10A:71-3.2;

6. (No change.)

(f) Except as provided in this section, upon a two-member adult Board panel determining that an adult inmate shall serve a future parole eligibility term upon revocation of parole, the two-member adult Board panel shall establish such terms as follows:

1. (No change.)

2. The term established may be decreased or increased within the limits provided by (e) above when, in the evaluation of the two-member adult Board panel, the mitigating and aggravating factors as set forth [in (m)] **at** **(k)** and [(n)] **(l)** below, the circumstances of the parole violation and the characteristics and past record of the parolee warrant such adjustment.

(g) Except as provided in this section, upon a two-member young adult Board panel determining that a young adult inmate shall serve a future

parole eligibility term upon the revocation of parole, the two-member young adult Board panel shall establish the following:

1. Except as provided [in] **at** (h) and [(o)] **(m)** below, a term of eight months for the commission of a fourth degree crime;

2. Except as provided [in] **at** (h) and [(o)] **(m)** below, a term of 10 months for the commission of a third degree crime;

3. Except as provided [in] **at** (h) and [(o)] **(m)** below, a term of 16 months for the commission of a second degree crime;

4. Except as provided [in] **at** (h) and [(o)] **(m)** below, a term of 24 months for the commission of a first degree crime; and

5. Except as provided [in] **at** (h) and [(o)] **(m)** below, a term of 30 months for the commission of the crimes of murder or kidnapping.

(h) The future parole eligibility date required pursuant to (g) above may be decreased or increased when, in the opinion of the two-member young adult Board panel pursuant to [(m)] **(k)** or [(n)] **(l)** below, the circumstances of the parole violation and the characteristics and past records of the parolee warrant such consideration. The increase or decrease shall be no more than the following:

1.-5. (No change.)

[(i) Except as provided in this section, upon the juvenile Board panel determining that a juvenile inmate shall serve a future parole release term upon revocation of parole, the juvenile Board panel shall establish the following:

1. Except as provided in (j) and (o) below, a term of six months for the commission of a fourth degree crime or an offense which constitutes a crime of the fourth degree if committed by an adult;

2. Except as provided in (j) and (o) below, a term of eight months for the commission of a third degree crime or an offense which constitutes a crime of the third degree if committed by an adult;

3. Except as provided in (j) and (o) below, a term of 12 months for the commission of a second degree crime or an offense which constitutes a crime of the second degree if committed by an adult;

4. Except as provided in (j) and (o) below, a term of 16 months for the commission of a first degree crime or an offense which constitutes a crime of the first degree if committed by an adult; and

5. Except as provided in (j) and (o) below, a term of 20 months for the commission of the crime of murder or kidnapping or an offense which constitutes the crime of murder or kidnapping if committed by an adult.

(j) The future parole release term required pursuant to (i) above may be decreased or increased when in the opinion of the juvenile Board panel, pursuant to (m) or (n) below, the circumstances of the parole violation and the characteristics and past record of the parolee warrant such consideration. The decrease or increase shall be no more than the following:

1. Two months in the case of the commission of a fourth degree crime or an offense which constitutes a crime of the fourth degree if committed by an adult;

2. Four months in the case of the commission of a third degree crime or an offense which constitutes a crime of the third degree if committed by an adult;

3. Six months in the case of the commission of a second degree crime or an offense which constitutes a crime of the second degree if committed by an adult;

4. Eight months in the case of the commission of a first degree crime or an offense which constitutes a crime of the first degree if committed by an adult; and

5. Ten months in the case of the crime of murder or kidnapping or an offense which constitutes the crime of murder or kidnapping if committed by an adult.]

[(k)] **(i)** (No change in text.)

[(l)] **(j)** In no case shall a future parole eligibility date established pursuant to (a)[, (b), (c), (d), (e), (f), (g) and] **through** (h) above [or the future parole release date established pursuant to (i) and (j) above] be greater than the balance of the custodial term remaining.

[(m)] **(k)** A two-member Board panel may decrease, pursuant to (b), (d), (f)2, or (h) above, the future parole eligibility date required pursuant to (a)3, (c), (f)1, or (g) above, [or decrease pursuant to (j) above, the future parole release date required pursuant to (i) above] if the two-member Board panel determines that one or more of the following mitigating factors is present:

1.-7. (No change.)

[(n)] **(l)** A two-member Board panel may increase, pursuant to (b), (d), (f)2, or (h) above, the future parole eligibility date required pursuant to (a)3, (c), (f)1, or (g) above, [or increase pursuant to (j) above, the future parole release date required pursuant to (i) above,] if the two-member Board panel determines that one or more of the following aggravating factors is present:

1.-7. (No change.)

[(o)] **(m)** A three-member Board panel may establish a future parole eligibility date which differs from that otherwise required by the provisions of this section if the future parole eligibility date [or, in the case of a juvenile inmate, a future parole release date], which would otherwise be established pursuant to this section, is clearly inappropriate in consideration of the circumstances of the parole violation and the characteristics and prior criminal record of the parolee.

1. If, in the opinion of a two-member Board panel revoking parole, the future parole eligibility date [or, in the case of a juvenile inmate, the future parole release date] which would otherwise be established pursuant to this section is clearly inappropriate as provided in this section, the two-member Board panel shall refer such case for a three-member Board panel review for the purpose of establishing a future parole eligibility date [or, in the case of a juvenile inmate, a future parole release date].

i. (No change.)

2. The two-member Board panel shall notify the inmate and the inmate's attorney, in writing, pursuant to N.J.A.C. 10A:71-7.18 that a future parole eligibility date [or, in the case of a juvenile inmate, a future parole release date,] pursuant to this section has not been established and the reasons therefor and that a three-member Board panel review of the record will be scheduled.

3. (No change.)

4. The three-member Board panel shall, upon disposition of the case, state in writing to the inmate and the inmate's attorney the reasons for the establishment of a future parole eligibility date [or, in the case of a juvenile inmate, a future parole release date], which differs from that otherwise required by the provisions of this section.

5. The decision of the three-member Board panel to establish a future parole eligibility date [or, in the case of a juvenile inmate, a future parole release date], which differs from that required by the provisions of this section shall be by unanimous decision only. Failure to reach [an] a unanimous decision shall result in the referral of the inmate's case to the Board for the establishment of a future parole eligibility date [or, in the case of a juvenile inmate, a future parole release date].

6. If the three-member Board panel fails to reach [an] a unanimous decision, the three-member Board panel shall notify the inmate and the inmate's attorney, in writing, that his or her case has been referred to the Board for the establishment of a future parole eligibility date [or, in the case of a juvenile inmate, a future parole release date].

7. The inmate and/or the inmate's attorney shall have 30 days from the date notice is received pursuant to [(o)6] **(m)6** above to prepare and submit a written statement containing any additional information which the inmate and/or the inmate's attorney may deem relevant to the evaluation of his or her case by the Board.

8. The Board's establishment of a future parole eligibility date [or, in the case of a juvenile inmate, a future parole release date] shall be based on the review of the record. Upon disposition of the case, the Board shall state in writing to the inmate and the inmate's attorney the reasons for the establishment of a future parole eligibility date [or, in the case of a juvenile inmate, a future parole release date], which differs from that otherwise required by the provisions of this section.

Recodify existing (p)-(q) as **(n)-(o)** (No change in text.)

[(r)] **(p)** If an inmate's maximum sentence will expire prior to the parole release date that could be established pursuant to (a)2 above[,] **or** the future parole eligibility date that could be established pursuant to (a)3, (b), (c), (d), (f), (g), or (h) above [or the future parole release date that could be established pursuant to (i) or (j) above], the appropriate Board panel may direct that such inmate serve his or her maximum sentence and not be eligible for parole consideration on the balance of the maximum sentence.

10A:71-7.18 Revocation hearing; notice of decision

(a) Within 21 days of the revocation hearing, the appropriate Board panel shall issue a written Notice of Decision to the parolee and the parolee's attorney, the District Parole Supervisor [or designated representative of the Commission, as appropriate], **and** the Department [or Commission, as appropriate, and the Board].

(b) Such Notice of Decision shall consist of:

1.-2. (No change.)

3. The future parole eligibility date established pursuant to N.J.A.C. 10A:71-7.17[, 7.17A or 7.17B].

10A:71-7.19A Adult Diagnostic and Treatment Center examination for sex offenders; place of confinement; future parole eligibility

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

(h) The adult Board panel shall establish a future parole eligibility date pursuant to N.J.A.C. 10A:71-[7.17B]7.17 if the adult Board panel affirms the revocation of parole and if the report of the examination conducted pursuant to (b), (c), and (d) above reveals that the inmate's violation(s) of the parole conditions:

1.-2. (No change.)

(i)-(k) (No change.)

(l) An inmate confined pursuant to (k)1 or 2 above shall be eligible for parole pursuant to the provisions of N.J.S.A. 30:4-123.45 et seq. However, a parole eligibility date established pursuant to N.J.A.C. 10A:71-[7.17B]7.17 or a future parole eligibility date established pursuant to N.J.A.C. 10A:71-3.21 shall not be reduced by commutation time for good behavior pursuant to N.J.S.A. 30:4-140 or credits for diligent application to work and other institutional assignments pursuant to N.J.S.A. 30:4-92.

(m)-(n) (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:

...

"Division of Parole" means 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 offenders who are serving a mandatory period of parole supervision pursuant to N.J.S.A. 2C:43-[7.2(c)]7.2.c; the supervision of offenders under parole supervision from other states who have been accepted under the terms of the Interstate Compact for Adult Offender Supervision; 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.

...

"Parolee" means 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 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); an adult offender under supervision serving a special sentence of **community or** 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:72-2.1 Investigation of community release

(a) (No change.)

(b) Upon the proposed parole residence plan being provided to the appropriate District Parole Office, the District Parole Supervisor, or designee, shall assign a parole officer to investigate the plan.

(c) (No change.)

(d) The parole officer assigned to complete the investigation shall perform the following tasks:

1.-7. (No change.)

8. Submit the written report to the [appropriate Panel] District Parole Supervisor, or designee.

(e) **The District Parole Supervisor, or designee, shall review the report and determine whether the proposed parole residence plan is suitable. If deemed not suitable, the District Parole Supervisor, or designee, shall advise the appropriate Board staff person that an alternate plan needs to be ascertained and investigated.**

10A:72-2.3 Case Plan Agreements and Chronological Supervision Reports

(a) **The assigned parole officer shall create a Case Plan Agreement with the offender to document supervision goals. The Case Plan Agreement shall include short-term and long-term goals based upon a risk assessment, an extensive file review, and a personal interview of the offender; and specific time periods for achieving short-term and long-term goals.**

1. **As the offender meets supervision objectives, the assigned parole officer shall assess the case plan agreement with the offender and modify the short- and long-term goals for the offender.**

2. **If the offender fails to meet supervision objectives, the assigned parole officer shall apply alternative means for achieving compliance, including reprioritizing goals or breaking down short-term goals into specific action steps.**

3. **High risk offenders may require multiple short-term goals and more frequent follow up. Low risk offenders may require fewer short-term goals and less follow up.**

4. **Offenders who seriously or persistently fail to comply with supervision objectives shall be subject to the imposition of one or more consequences chosen from a range of intermediate actions available to the parole officer and the District Parole Supervisor, or designee.**

[(a)] (b) (No change in text.)

[(b) Each CSR must begin with a case plan agreement identifying those areas in which the parolee may need improvement. The case plan agreement shall also include a case plan detailing the efforts to be taken by the parolee and the assigned parole officer to correct deficiencies.]

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. (No change.)

2. The imposition of any special condition(s) that will reduce the likelihood of recurrence of criminal [or delinquent] behavior; or

3. The imposition of a special condition requiring:

i.-ii. (No change.)

iii. Assignment to, and successful completion of, a community [reporting center] program **that provides reentry services;** or

iv. (No change.)

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

10A:72-2.5 Residing with a minor child

(a)-(e) (No change.)

(f) The evaluation of an offender’s request to reside with a minor child shall include, but not be limited to, an assessment as to whether:

1. **Residing with a minor child is consistent with the continued rehabilitation of the offender and will not compromise public safety;**

2. **The offender is in compliance with his or her conditions of supervision;**

3. **The written assessment from a sex offender treatment provider specified at (d) above is supportive of the offender residing with the minor child;**

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

5. **There are no known restraining order(s) against the offender involving any person(s) residing at the proposed residence;**

6. **The victim(s) of the sexual offense committed by the offender resides in or near the proposed residence; and**

7. **The parent or guardian’s knowledge of the circumstances of the sexual offense committed by the offender are consistent with the official version of the commitment offense.**

Recodify existing (f)-(g) as (g)-(h) (No change in text.)

10A:72-2.6 Unsupervised contact with a minor child

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

(e) The evaluation of an offender’s request to initiate, establish, or maintain unsupervised contact with a minor child shall include, but not be limited to, an assessment as to whether:

1. **Initiating, establishing, or maintaining contact with a minor child is consistent with the continued rehabilitation of the offender and will not compromise public safety;**

2. **The offender is in compliance with his or her conditions of supervision;**

3. **The written assessment from a sex offender treatment provider specified at (d) above is supportive of the offender initiating, establishing, or maintaining contact with the minor child;**

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

5. **There are no known restraining order(s) against the offender involving the parent or guardian of the minor child;**

6. **The parent or guardian’s knowledge of the circumstances of the sexual offense committed by the offender are consistent with the official version of the commitment offense; and**

7. **Additional special conditions may be necessary.**

[(e)] (f) (No change in text.)

SUBCHAPTER 4. USE OF FIREARMS AND USE OF FORCE WHILE ON-DUTY

10A:72-4.1 Parole officer authorization to carry firearm while on duty

(a) Prior to being permitted to carry a firearm on duty, a parole officer shall:

1. Pursuant to N.J.S.A. 52:17B-66 et seq., have taken and successfully completed the Police Training Commission (P.T.C.) approved Basic Course for [Parole] **Police Officers or Basic Course for Investigators;** and

2. (No change.)

10A:72-4.10 Training

(a) (No change.)

(b) Training in proper methods and techniques of using force shall be provided as part of the Basic Course for [Parole] **Police Officers or Basic Course for Investigators** provided at a Police Training [Commission approved] **Commission-approved** training facility and shall be repeated annually.

10A:72-4.11 Motor vehicle pursuits prohibited

Parole officers shall not operate a motor vehicle for the purpose of engaging in a motor vehicle pursuit.

SUBCHAPTER 5. USE OF PERSONAL FIREARMS AND USE OF FORCE WHILE OFF-DUTY

10A:72-5.1 Authorized off-duty firearm, ammunition, and holsters

(a) (No change.)

(b) Prior to being permitted to carry a firearm off-duty, parole officers shall meet the following requirements:

1. Pursuant to N.J.S.A. 52:17B-66 et seq., have taken and successfully completed the Police Training Commission (P.T.C.) approved Basic Course for [Parole] **Police Officers or Basic Course for Investigators;** and

2. (No change.)

(c)-(k) (No change.)

10A:72-5.9 Motor vehicle pursuits prohibited

Parole officers shall not operate a motor vehicle for the purpose of engaging in a motor vehicle pursuit.

SUBCHAPTER 6. SEARCH AND URINE MONITORING OF PAROLEES

10A:72-6.7 Testing for [prohibited] substances

(a) Testing shall be conducted for the purpose of deterring the use of, or to detect the presence of, [any substance not authorized for possession or use by the parolee] **controlled dangerous substances or alcohol.**

[(b) Parolees shall be tested:

1. When mandated by special condition of the Board or the Division of Parole pursuant to N.J.A.C. 10A:71-6.4;

2. When the parole officer believes, based upon his or her education and experience, that there is a reasonable factual basis to suspect the parolee of using a prohibited substance(s); or

3. When the parolee is a participant in residential or outpatient drug treatment.]

(b) Parolees may be tested for the use or presence of controlled dangerous substances or alcohol at any time pursuant to N.J.A.C. 10A:71-6.4(a)17, 6.11(b)16, and 6.12(d)16.

SUBCHAPTER 7. CONTRABAND AND DISPOSITION OF CONTRABAND

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

(a) (No change.)

[(b) The parole officer making a seizure of the contraband from a parolee shall submit the criminal contraband to the local law enforcement jurisdiction or county prosecutor's office.]

[(c) **(b) The parole officer shall record, in an investigation report, the incident, including the type[,] and amount of the contraband and [disposition of the contraband on Form F-19, CHRONOLOGICAL SUPERVISION REPORT] whether the contraband was submitted to the local law enforcement jurisdiction, the county prosecutor's office, or maintained by the Division.**

[(d)] (c) (No change in text.)

SUBCHAPTER 8. TRANSPORTATION OF PAROLEES IN CUSTODY

10A:72-8.2 Transport of parolees in custody

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

[(h) When utilizing a State vehicle specified in (a) above to transport parolees in custody, the ratio of transporting parole officers to parolees shall be two parole officers for one parolee, two parole officers for two parolees, and three parole officers for three parolees. When utilizing a State vehicle specified in (d) above to transport parolees in custody, the ratio of transporting parole officers to parolees shall be two parole officers for one parolee, two parole officers for two parolees and three parole officers for three parolees.]

Recodify existing (i)-(m) as **(h)-(I)** (No change in text.)

10A:72-8.4 Medical transportation

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

[(c) When a parolee in custody is transported in a State owned vehicle, the ratio of escorting parole officers to parolees shall be governed by N.J.A.C. 10A:72-8.2.]

[(d)] (c) (No change in text.)

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

10A:72-10.3 Procedure

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

(c) [The] **Upon the offender being served with written notice of the imposition of the curfew, electronic monitoring, or GPS monitoring condition, 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 curfew, electronic monitoring, or GPS monitoring condition.

(d)-(f) (No change.)

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

10A:72-11.1 Criteria

(a) Pursuant to N.J.S.A. 30:4-123.91, the following persons **whose offense(s) was committed on or after August 6, 2007**, shall be enrolled in the Sex Offender Global Positioning System (GPS) Monitoring Program:

1.-2. (No change.)

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

SUBCHAPTER 14. INTERNET ACCESS CONDITION

10A:72-14.2 Procedure

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

(c) [The] **Upon the offender being served with written notice of the imposition of the special condition prohibiting access to the Internet, 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)-(f) (No change.)

SUBCHAPTER 15. SOCIAL NETWORKING CONDITION

10A:72-15.1 Criteria

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

1. The following words and terms, as used in this section, shall have the following meanings, unless the context clearly indicates otherwise.

i. "Chat room" means any Internet website through which users have the ability to communicate through messaging and which allows messages to be visible to all users or to a designated segment of users.

ii. "Internet website or application," as used at (a)liv 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 at (a)liv 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. "Social networking service" includes any Internet website or application, chat room, or peer-to-peer network, that:

(1) Contains profile pages of the members of the social networking service that include the names or nicknames of such members, photographs placed on the profile pages by such members, or any other personal or personally identifying information about such members and links to other profile pages on social networking services of friends or associates of such members that can be accessed by other members of, or visitors to, the social networking service;

(2) Provides members of, or visitors to, such social networking service the ability to leave messages or comments on the profile page that are visible to all or some visitors to the profile page;

(3) Provides members of, or visitors to, the social networking service the ability to engage in direct or real time communication with other users, such as a chat room or instant messenger; or

(4) Provides a form of electronic mail for members of, or visitors to, the social networking service. For the purpose of this

subparagraph, “social networking service” does not include the use of email exclusively for person-to-person communication.

(b) The District Parole Supervisor, or designee, may impose a special condition prohibiting an offender 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, if:

1. There is a specific and articulable reason and a clear purpose for the imposition of the social networking condition;
2. The imposition of the social networking 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; and
3. Social networking was a contributing factor in the offender’s commitment offense or the imposition of the social networking condition is deemed appropriate based on new behavior demonstrated by the offender under supervision.

10A:72-15.2 Procedure

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

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

(c) Upon the offender being served with written notice of the imposition of the social networking condition, 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 social networking 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 social networking condition, the offender shall be advised that the social networking 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 social networking condition and exigent circumstances do not exist as to require the immediate effectuation of the social networking 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 social networking 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 social networking 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 social networking condition shall not be effectuated until such time as a Board panel authorizes the effectuation of the social networking condition;

4. The District Parole Office shall forward a copy of the written notice of the imposition of the social networking condition to a Board panel. If the offender contests the imposition of the social networking 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 social networking 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 social networking condition, and the District Parole Office believes that exigent circumstances do exist as to require the immediate effectuation of the social networking 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 social networking condition to determine whether exigent circumstances do exist as to require immediate effectuation of the social networking 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 social networking 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 social networking 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 social networking 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; 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:72-15.3 Board panel review

(a) Upon receipt of the written notice of a special condition prohibiting an offender 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 (social networking condition), the basis for the imposition of the social networking 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 social networking condition.

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

10A:72-15.4 Division of Parole review

(a) A District Parole Supervisor, or designee, shall review a special condition prohibiting an offender 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 (social networking condition) one year from the effective date

of the social networking condition, and on an annual basis thereafter, to determine if the condition remains warranted.

(b) The District Parole Supervisor, or designee, shall review the social networking condition utilizing the criteria specified at (c) below.

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

1. There is a reasonable basis to preclude an offender from using any computer and/or device to create any social networking profile or from access to any social networking service or chat room in the offender's name or any other name;

2. Social networking 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 social networking will promote the rehabilitation of the offender and assist the offender's re-entry efforts.

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

(e) If the District Parole Supervisor, or designee, determines to continue the social networking condition, the continuation shall conform with the procedures at N.J.A.C. 10A:72-15.2 and 15.3. However, if the offender contests the justification supporting the extension of the social networking condition, the social networking 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 social networking condition.

(f) If the District Parole Supervisor, or designee, determines to vacate the social networking 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.

TRANSPORTATION

(a)

MOTOR VEHICLE COMMISSION

Requirements for Standard Driver Licenses and Non-Driver Identification Cards

Proposed Amendment: N.J.A.C. 13:21-8.2

Authorized By: Motor Vehicle Commission, B. Sue Fulton, Chair and Chief Administrator.

Authority: N.J.S.A. 39:2A-28, 39:2-3.4(a), 39:3-10, 39:3-10o, 39:3-13, 39:3-13.1, 39:3-13.4, and 39:3-29.3.

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

Proposal Number: PRN 2021-017.

Submit comments by April 17, 2021, to:

Kate Tasch, Director
Legal and Regulatory Affairs
Motor Vehicle Commission
225 East State Street
PO Box 162
Trenton, NJ 08666-0162
or via email to: rulecomments@mvc.nj.gov

The agency proposal follows:

Summary

The Motor Vehicle Commission (Commission) is responsible for ensuring that all New Jersey residents who are of legal age to drive and who are driving on New Jersey's roads are properly trained, tested,

licensed, and insured in accordance with New Jersey laws. The Commission's rules list the requirements for the issuance of driver licenses, permits, and non-driver identification cards.

P.L. 2019, c. 271 (the act) declared that the State could improve roadway safety and automobile insurance coverage by making driver licenses and permits available to any safe driver, irrespective of immigration status, who meets all the requirements relating to the driver's ability to safely operate a motor vehicle, and who provides proof of identity, qualifying age, and New Jersey residency. An applicant for a standard basic driver's license, standard motorcycle license, standard permit, standard probationary license, or standard non-driver identification card is only required to provide information or documentation necessary to determine eligibility for the standard document for which the applicant has applied. The act created a status-neutral driver's license, permit, and identification card and established the requirement for New Jersey residency. New Jersey law, at N.J.S.A. 39:3-10, requires that the Chief Administrator assess point values for documentation establishing an applicant's identity, which are designated at N.J.A.C. 13:21-8.2.

Effective February 16, 2021, the Commission adopted rules to make standard driver licenses, permits, and identification cards available to any safe driver, regardless of immigration status, who meets all of the requirements relating to the driver's ability to operate a motor vehicle and who provides acceptable documentation establishing proof of identity, age, and New Jersey residency.

In addition to licenses to operate vehicles, the Commission issues boat operator licenses. N.J.S.A. 12:7-72 authorizes the Commission to issue boat operator licenses upon proper application and N.J.A.C. 13:82-8.20 sets forth the required documentation, which is the same as that required for standard driver licenses and non-driver identification cards. Although the Motor Vehicle Commission is responsible for determining what documentation is required to obtain a boat operator license, the New Jersey Boat Regulatory Commission in the New Jersey State Division of State Police's Marine Services Bureau (Boat Regulatory Commission) promulgates all rules regarding boating operations. To ensure consistency of both agencies' rules, the Boat Regulatory Commission will consider a notice of proposal (at an upcoming meeting) that mirrors the Motor Vehicle Commission's proposed amendments in this rulemaking, thereby amending N.J.A.C. 13:82-8.20.

In response to comments received to the notice of proposal that was adopted on June 4, 2020, the Commission determined that an affidavit of the type used in a number of other states would meet the statutory requirement for those who cannot get a Social Security number to indicate that they are not eligible, where, along with meeting all of the point-related standards on primary and secondary documents in the rule, the person establishes on an affidavit form supplied by the Commission that the person is not eligible to receive a Social Security number.

Therefore, the Commission proposes to replace existing N.J.A.C. 13:21-8.2(b)7ii to delete the existing requirement for a Social Security Administration letter of ineligibility and add a requirement to supply an affidavit on a form provided by the Commission, attesting to the person's ineligibility for a Social Security number.

This notice of proposal is exempted from the rulemaking calendar requirement pursuant to N.J.A.C. 1:30-3.3(a)5. Since this notice is not listed in the agency rulemaking calendar, the public comment period for this notice will be 60 days.

Social Impact

The Commission anticipates that the proposed amendments will positively impact a significant number of the approximately 450,000 members of New Jersey's immigrant population by extending the privilege of operating a motor vehicle to any New Jersey resident, regardless of their immigration status, who cannot supply a current Individual Taxpayer Identification Number (ITIN), Social Security number, or a Social Security Administration letter denying issuance of a Social Security number, but can meet all the other primary and secondary documentation requirements to qualify for a driver's license, identification card or permit, and can (for license applicants) demonstrate they are safe drivers.