

who are not eligible for the Title IV-E Adoption Assistance program, pursuant to N.J.S.A. 30:4C-45 through 49. This program ensures that all children with special needs have an equal opportunity to have a permanent adoptive family.

If the State-funded subsidy program was not available, the majority of these children would remain in the foster care system, to the detriment of their emotional well-being and at an increased expense to the State. Not only would all of the direct costs paid through subsidy be incurred by the Division of Child Protection and Permanency (Division) while the children are in resource care, but the administrative costs which arise from the supervision of these children in their foster homes would have to be assumed by the State as well. In addition, most children who are adopted are provided with a familial support system that assists them emotionally and financially after they reach 18 and are no longer eligible for subsidy. The provision of the State subsidy program is neither administratively or financially onerous, as it utilizes the same technology as the Federal Title IV-E program.

Jobs Impact

The Division anticipates no impact, either positive or negative, on job creation due to the rules proposed for readoption.

Agriculture Industry Impact

The rules proposed for readoption have no impact on the agriculture industry.

Regulatory Flexibility Statement

Neither the Department nor the Department's clients, nor the adoptive parents who apply for or receive adoption subsidy payments are considered small businesses pursuant to the terms of N.J.S.A. 52:14B-16 et seq., the Regulatory Flexibility Act. Agencies approved or licensed either by New Jersey or another state to provide adoption services may be small businesses. The proposed readoption of N.J.A.C. 3A:23 does not impose reporting, recordkeeping, or compliance requirements on any small businesses. Therefore, a regulatory flexibility analysis is not necessary.

Adoption subsidy is available for a child with special needs within the care of New Jersey private agencies certified to practice adoption pursuant to State adoption law, N.J.S.A. 9:3-37 et seq. In order to be certified, these agencies must meet the requirements for certification at N.J.A.C. 3A:51. No additional compliance requirements are imposed on these agencies through the adoption subsidy program.

Housing Affordability Impact Analysis

The Department does not believe that the rules proposed for readoption will have any impact on the affordability of housing in New Jersey and there is an extreme unlikelihood that the rules would evoke a change in the average costs associated with housing because the rules pertain to the Department's adoption subsidy program.

Smart Growth Development Impact Analysis

The rules proposed for readoption have no impact on smart growth and there is an extreme unlikelihood that the rules would evoke a change in housing production in Planning Areas 1 or 2, or within designated centers, pursuant to the State Development and Redevelopment Plan in New Jersey because the rules pertain to the Division's adoption subsidy program.

Racial and Ethnic Community Criminal Justice and Public Safety Impact

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

Full text of the rules proposed for readoption may be found in the New Jersey Administrative Code at N.J.A.C. 3A:23.

CORRECTIONS

(a)

STATE PAROLE BOARD

Parole Board Rules

Proposed Amendments: N.J.A.C. 10A:71-2.2, 3.21, 3.54, 4.1, 4.2, 5.9, and 6.12

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 2026-033.

Submit written comments by September 4, 2026, to:

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The agency proposal follows:

Summary

On September 8, 2022, the Office of the Public Defender (OPD) petitioned the State Parole Board (Board) to modify N.J.A.C. 10A:71-2.2, 3.11, and 3.20. In its petition, the OPD proposed revised language at N.J.A.C. 10A:71-2.2(c) to align the rulemaking with *Thompson v. State Parole Board*, 210 N.J. Super. 107 (App. Div. 1986). The Board denied the petition on November 17, 2022. The OPD appealed and the Superior Court, Appellate Division on May 13, 2024, in *In the Matter of Petition for Rulemaking to Amend N.J.A.C. 10A:71-3.11*, 2024 WL 2130548 (App. Div. 2024), affirmed the Board's denial of the OPD's rulemaking petition. On April 8, 2025, the State Supreme Court granted the OPD's petition for certification limited to the Board's denial of the petition for rulemaking to amend N.J.A.C. 10A:71-2.2.

The State Supreme Court, on January 14, 2026, in *In the Matter of Petition for Rulemaking to Amend N.J.A.C. 10A:71-3.11*, 262 N.J. 428 (2026), determined that N.J.A.C. 10A:71-2.2(a)1 treats all medical, psychiatric, and psychological records as confidential; that in doing so, N.J.A.C. 10A:71-2.2(c) has the effect of imposing a categorical bar against the disclosure of documents to inmates that the Board may rely on during the parole process; and that this approach violates the constitutional principles of due process set forth at *Thompson*. The State Supreme Court noted that in *Thompson*, the Superior Court, Appellate Division had reviewed an inmate's liberty interest in parole eligibility decisions; recognized an inmate's limited right to disclosure of prison records in parole proceedings; acknowledged that there are certain situations where disclosure should be avoided; noted that confidential documents removed from a parole file must be identified; and directed the Board to state in its decision whether any document marked confidential played a substantial role in producing the adverse decision to deny parole.

The State Supreme Court reversed the judgment of the Superior Court, Appellate Division and remanded the matter to the Board to propose and adopt a new rulemaking consistent with the rulemaking process. The proposed amendments at N.J.A.C. 10A:71-2.2 are intended to address the concerns of the State Supreme Court.

The proposed amendments at N.J.A.C. 10A:71-3.21(e), 3.54(g), and 4.2 correct cross-references to New Jersey Administrative Code provisions.

N.J.A.C. 10A:71-4.1(g) is proposed for deletion. This subsection provides for the appeal of a decision not to refer a parolee's case for an indigency assessment and the assignment of an attorney pursuant to the *pro bono* program to represent the parolee at parole revocation proceedings. Pursuant to P.L. 2023, c. 157, enacted September 12, 2023, a unit was established within the OPD that shall provide for the legal representation of any parolee subject to parole revocation proceedings.

The legislation did not impose an indigency requirement for these services. As the OPD now represents parolees at parole revocation proceedings, no decision is required to be made regarding an indigency assessment and the assignment of an attorney and, therefore, the subsection is no longer deemed necessary and is proposed for deletion.

The proposed amendments at N.J.A.C. 10A:71-5.9(b) merely delete a comma after the words "vacate" and "release."

The proposed deletion and replacement of N.J.A.C. 10A:71-6.12(a) provide for the reformatting of the subsection and the inclusion of reference to additional offenses that are subject to the imposition of a special sentence of parole supervision for life, pursuant to previously enacted amendments at N.J.S.A. 2C:43-6.4.a.

This notice of proposal is excepted from the rulemaking calendar requirements as 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 amendments at N.J.A.C. 10A:71-2.2 will impact inmates (and parolees) in that certain documents/information considered by the Board during the parole release hearing and decision-making processes would be subject to release to an inmate (or parolee), conditioned upon a review of certain non-disclosure restrictions. The Board will be impacted in that the Board will need to assess whether certain documents/information may be released to an inmate (or parolee); whether the release of a document/information is subject to a non-disclosure restriction; and whether a document/information may be released to an inmate (or parolee) with certain redactions to address non-disclosure restrictions.

Economic Impact

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

Federal Standards Statement

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

Jobs Impact

The proposed amendments pertain to the release of certain documents/information considered by the Board during the parole release hearing and decision-making processes, the deletion of an administrative appeal provision that is no longer deemed necessary, and the inclusion of reference to additional offenses subject to the imposition of a special sentence of parole supervision for life. It is not anticipated that any jobs will be lost or created as a result of the proposed amendments.

Agriculture Industry Impact

The proposed amendments pertain to the release of certain documents/information considered by the Board during the parole release hearing and decision-making processes, the deletion of an administrative appeal provision that is no longer deemed necessary, and the inclusion of reference to additional offenses subject to the imposition of a special sentence of parole supervision for life. The proposed amendments, therefore, will not have any impact on the agriculture industry in New Jersey.

Regulatory Flexibility Statement

The proposed amendments pertain to the release of certain documents/information considered by the Board during the parole release hearing and decision-making processes, the deletion of an administrative appeal provision that is no longer deemed necessary, and the inclusion of reference to additional offenses subject to the imposition of a special sentence of parole supervision for life. The proposed amendments do not impact reporting, recordkeeping, or other compliance requirements upon small businesses, as defined pursuant to 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 amendments pertain to the release of certain documents/information considered by the Board during the parole release hearing and decision-making processes, the deletion of an administrative appeal provision that is no longer deemed necessary, and the inclusion of reference to additional offenses subject to the imposition of a special sentence of parole supervision for life. The proposed amendments will, therefore, have no impact on the affordability of housing and no impact on the increase or decrease of the average cost of housing in the State.

Smart Growth Development Impact Analysis

The proposed amendments pertain to the release of certain documents/information considered by the Board during the parole hearing and decision-making processes, the deletion of an administrative appeal provision that is no longer deemed necessary, and the inclusion of reference to additional offenses subject to the imposition of a special sentence of parole supervision for life. The proposed amendments will, therefore, not evoke a change in housing production in Planning Areas 1 or 2, or within designated centers, pursuant to the State Development and Redevelopment Plan.

Racial and Ethnic Community Criminal Justice and Public Safety Impact

The proposed amendments pertain to the release of certain documents/information considered by the Board during the parole hearing and decision-making processes, the deletion of an administrative appeal provision that is no longer deemed necessary, and the inclusion of reference to additional offenses subject to the imposition of a special sentence of parole supervision for life. The proposed amendments will, therefore, have no impact on pretrial detention, sentencing, or probation policies. Accordingly, no further analysis is required.

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

SUBCHAPTER 2. RECORDS; GENERAL ADMINISTRATIVE PROVISIONS

10A:71-2.2 Records designated confidential

(a) In addition to records designated as confidential pursuant to the provisions [of] **at** N.J.S.A. 47:1A-1 et seq., any other law, rule promulgated [under] **pursuant to** the authority of any statute or Executive Order of the Governor, resolution of both houses of the Legislature, [Executive Order of the Governor,] Rules of Court, or any Federal law, Federal regulation, or Federal order, the following records shall be deemed confidential and shall not be subject to public access:

1. Information, files, documents, reports, records, or other written materials concerning an offender's medical, psychiatric or psychological history, diagnosis, treatment, or evaluation, **except that such materials related to an offender's proceeding may be disclosed to the offender pursuant to (c) below;**

2.-10. (No change.)

(b) (No change.)

(c) Inmates or parolees shall be afforded disclosure of adverse material or information considered at a hearing[, provided such material is not classified as confidential by the Board or the Department] **unless the Board concludes that disclosure to the inmate or parolee would:**

1. **Threaten the life or physical safety of any person;**

2. **Compromise the privacy rights of other individuals;**

3. **Interfere with law enforcement proceedings;**

4. **Result in disclosure of therapeutic matters that would adversely affect the rehabilitation of the inmate or the future delivery of rehabilitative services by Department counselors or therapists; and/or**

5. **Result in disclosure of diagnostic evaluations, assessments, prognoses, or recommendations included in a psychological or psychiatric evaluation report prepared at the direction of the Board that would adversely affect the rehabilitation of the inmate or the future delivery of rehabilitative services or compromise the integrity**

or use of the evaluator's psychological-assessment tools, methods, or interpretations.

(d) If disclosure is withheld in pursuant to (c) above, the reason for nondisclosure shall be [noted] **explained** in the Board's file[s], and such material or information shall be identified as confidential.

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

SUBCHAPTER 3. PAROLE RELEASE HEARINGS

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

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

(e) The Board, upon the conclusion of a hearing conducted pursuant to N.J.A.C. 10A:71-3.18[(c)](d), may establish a future parole eligibility date which differs from that required by the provisions [of] at (a) or (b) and (c) above if the future parole eligibility date which would be established pursuant to such subsections is clearly inappropriate in consideration of the circumstances of the crime, the characteristics, and prior criminal record of the inmate and the inmate's institutional behavior.

1. (No change.)

(f)-(i) (No change.)

10A:71-3.54 Mandatory supervision cases

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

(g) Additional special conditions (code) of supervision may be established pursuant to N.J.A.C. 10A:71-6.4[(i)](h).

(h)-(o) (No change.)

SUBCHAPTER 4. APPEALS

10A:71-4.1 Appeals by inmates

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

[(g)] A decision not to refer a parolee's case for an assessment as to whether the parolee is indigent and whether an attorney shall be assigned pursuant to the pro bono assignment program to represent the parolee at a preliminary hearing or parole revocation hearing conducted pursuant to N.J.A.C. 10A:71-7.7 and 7.14, respectively, shall be appealable to the Board.]

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

10A:71-4.2 Appellate procedure

(a) All appeals submitted pursuant to N.J.A.C. 10A:71-4.1 shall be filed in writing and within 90 days of written notice action or decision being received by the inmate and shall [contain] **include** the reasons for the appeal and the criteria under which the appeal is submitted. An appeal submitted pursuant to N.J.A.C. 10A:71-4.1[(i)] (failure to provide timely Board panel hearing) shall include reference to the inmate's actual parole eligibility date as established by the Board's staff.

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

(e) An appeal filed by an inmate pursuant to N.J.A.C. 10A:71-4.1[(i)](g) (failure to provide timely Board panel hearing) shall be considered by the Chairperson and a written notification of the Chairperson's decision provided to the inmate within 45 days of the date of the appeal being received.

(f) In the case of an appeal filed by an inmate pursuant to N.J.A.C. 10A:71-4.1[(i)](g) (failure to provide timely Board panel hearing), the failure of the Chairperson to provide written notification of a decision within 45 days of the date the appeal was received shall be deemed a denial of the appeal. A denial shall constitute a final agency decision.

(g) (No change.)

SUBCHAPTER 5. SUSPENDING OR RESCINDING A PAROLE RELEASE DATE

10A:71-5.9 Administrative parole release

(a) (No change.)

(b) The inmate and the Department shall be provided written notice of the decision to vacate[,] the decision to certify administrative parole release[,] and the basis for the decision within 14 days of the decision.

SUBCHAPTER 6. SUPERVISION

10A:71-6.12 Parole supervision for life

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

(a) Pursuant to N.J.S.A. 2C:43-6.4.a, a person convicted of committing any enumerated offense is subject to a special sentence of parole supervision for life, in addition to any sentence authorized by the Code of Criminal Justice, N.J.S.A. 2C:1-1 et seq., as follows:

1. A sentence imposed by a court on a person who has been convicted of committing the offense of aggravated sexual assault, sexual assault, aggravated criminal sexual contact, kidnapping pursuant to N.J.S.A. 2C:13-1.c(2), engaging in sexual conduct that would impair or debauch the morals of a child pursuant to N.J.S.A. 2C:24-4.a (recodified as N.J.S.A. 2C:24-4.a(1) effective August 14, 2013), endangering the welfare of a child pursuant to N.J.S.A. 2C:24-4.b(3), or luring, or an attempt to commit any of these offenses, on or after January 14, 2004, shall include a special sentence of parole supervision for life;

2. A sentence imposed by a court on a person who has been convicted of committing the offense of endangering the welfare of a child pursuant to N.J.S.A. 2C:24-4.b(4) or (5), or an attempt to commit either of these offenses on or after August 14, 2013, or committing the offense of endangering the welfare of a child pursuant to N.J.S.A. 2C:24-4.b(5)b(iii), or leader of a network to share child sexual abuse or exploitation material pursuant to N.J.S.A. 2C:24-4.1, or an attempt to commit either of these offenses on or after February 1, 2018, shall include, upon motion of the prosecutor, a special sentence of parole supervision for life, unless the court finds on the record that the special sentence of parole supervision for life is not needed to protect the community or deter the person from future criminal activity; or

3. A sentence imposed by a court on a person who has been convicted of committing the offense of endangering the welfare of a child pursuant to N.J.S.A. 2C:24-4.b(5)b(i) or (ii), or an attempt to commit either of these offenses on or after February 1, 2018, shall include a special sentence of parole supervision for life.

(b)-(n) (No change.)

(o) Additional special conditions may be imposed by the District Parole Supervisor, or his or her designated representative, when 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 a special condition.

1. Except as provided [in (n)4] at (o)4 below, a special condition imposed pursuant to this subsection shall be deemed effective on the date of imposition.

2. A special condition imposed pursuant to this subsection shall remain in effect, except as provided [in (n)3] at (o)3 below, until modified or vacated by the District Parole Supervisor or Assistant District Parole Supervisor or the designated representative of the District Parole Supervisor.

3.-4. (No change.)

(p)-(w) (No change.)