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TITLE 11

New Jersey.

Department of Institutions and Agencies, Division of  
CORRECTION AND PAROLE.

Rules of the State Parole Board

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TITLE 11

Department of Institutions and Agencies

Sub-Title K. State Parole Board

Chapter 70. Parole Matters

Sub-Chapter A. Statutory Authorization; Jurisdiction

11:70-1. STATUTORY AUTHORITY: The 1947 Constitution directs that "a system for the granting of parole shall be provided," Art. 5, Sec. 2, par. 2, and by the Laws of 1948, Chapter 84 (N.J.S.A. 30:4-123.1 et seq.) the State Parole Board was established as an independent agency within the Department of Institutions and Agencies.

The Rules contained in this Sub-Title were adopted by the Board pursuant to N.J.S.A. 30:4-123.6 at its meeting on August 1, 1969, and supersede all prior Rules.

11:70-2. JURISDICTION: The State Parole Board is responsible for the exercise of all quasi-judicial functions within its jurisdiction with respect to the grant or denial of parole, revocation of parole and reparole of inmates. The Board's functions also include, inter alia, the authority to discharge from parole, to issue certificates of good conduct, to promulgate rules and regulations, to impose or modify conditions of parole, to issue warrants and to establish general parole policies. The jurisdiction of the State Parole Board extends over persons committed to State penal or correctional institutions under sentence of: (1) life imprisonment; or (2) a sentence with a fixed minimum and maximum term; or (3) an indeterminate term imposed under the provisions of the special sex offender statute (N.J.S. 2A:164-3 et seq.); or (4) an indeterminate term where the inmate is transferred to the State Prison Complex; or (5) an indeterminate term imposed for a narcotics conviction where such sentence is treated for parole purposes as the equivalent of a term with a fixed minimum and a fixed maximum. Authority is also exercised with respect to any person committed to a county penitentiary, but only if such person is serving a term having a maximum greater than one year, and has served at least one year of such term, less commutation time earned and allowed, at the time his application for parole is entertained.

Sub-Chapter B. Composition, Meetings and Informal Proceedings

11:70-10. COMPOSITION OF THE BOARD: The New Jersey State Parole Board consists of a Chairman and two Associate Members.

- 11:70-11. REGULAR MEETINGS: The Board shall sit en banc in general session once each month at the call of the Chairman to discuss and settle questions of policy and procedure, to arrange the schedule of institutional hearings, to consider petitions for executive clemency and to review such other matters as may be within the Board's jurisdiction. Hearings held at the institutions for the purpose of considering prisoners for release on parole shall also be deemed regular meetings. Reasonable notice of such meetings shall be given to each member of the Board.
- 11:70-12. SPECIAL MEETINGS: Special meetings will be held when called by the Chairman or by any member of the Board, and written notice thereof shall be given to each member of the Board.
- 11:70-13. PROCEDURE AND PRACTICE: The proceedings of the Board with respect to any matters before it shall be informal. At the parole hearing the prisoner shall be given full opportunity to present any matter that he feels is related to his parole possibility. The Board shall maintain an informal record of the representations made by the prisoner. The Board shall not be bound by the ordinary rules of evidence or judicial procedure, nor shall attorneys be entitled to appear before it at hearings or meetings. Attorneys may, upon written permission of the Board, submit a brief in triplicate on behalf of an inmate. Attorneys, relatives and other interested persons desiring to submit letters or other documents pertinent to any case shall forward them to the Board's office. Any such persons desiring to discuss a case in person may request an appointment with the Chairman of the Board. Newspapermen and other representatives of news media shall not be present for any meetings or hearings.

#### Sub-Chapter C. Records

- 11:70-20. ELIGIBILITY FILE: The Board shall maintain a record file of all persons within its jurisdiction committed to any State penal or correctional institution. Excepted herefrom are the cases of county penitentiary prisoners coming within the jurisdiction of the Board. A card designated the "Record Card" shall be established for each prisoner which shall contain the inmate's name, number, offense, sentence, date sentenced, date received, county from which committed, jail time allowed, tentative parole eligibility date, estimated minimum term, estimated maximum term, class of offender, residence at time of commitment, institution of confinement, detainers and other pertinent data. These shall be filed alphabetically. When the prisoner's eligibility date has been determined, there shall be established a card to be known as the "Eligibility Card," which card shall be filed chronologically. The Board shall be notified promptly by the Chief Executive Officer of the institution of confinement of any subsequent changes in the eligibility date by reason of court order, additional sentences, executive clemency, etc. Upon receipt of such changes, the additional information shall be noted on the Board's Record Cards and Eligibility Cards and the cards refiled accordingly.
- 11:70-21. CASE RECORD: There shall be maintained in the Central Office of the Department of Institutions and Agencies case folders for each

offender committed to a State penal or correctional institution. These folders will be opened upon notification of reception in the respective institutions, and shall contain all pertinent facts with reference to the offender.

Sub-Chapter D. Preparation of Cases for Parole  
Consideration

- 11:70-30. GENERAL STATEMENT: As a basis for its decisions the Board desires as much information as it can obtain and adopts the following procedures for accumulating data.
- 11:70-31. STATE PENAL OR CORRECTIONAL CASES: Such cases shall be prepared as follows:
- (1) Four months in advance of the estimated eligibility date, the Board shall promulgate a list in numerical order of those cases which appear to be eligible for consideration. This list shall be distributed to the Chief Executive Officer of the institution of confinement.
  - (2) The receipt of this list by the institution staff shall be notice to initiate up-to-date staff reports, psychological and psychiatric examinations and reports, and to the Institution Parole Office to initiate pre-parole investigations.
  - (3) In those cases where a detainer is on file, the status of such detainees will be investigated, so far as is reasonably possible, prior to the parole hearing.
  - (4) Attached to the classification material shall be a separate sheet containing the recommendation of the Chief, Bureau of Parole, or his designated representative.
  - (5) The completed material shall be submitted to the Chairman of the Board in triplicate at least two weeks before the scheduled hearing date; and he shall assign the material to each member of the Board for review and recommendation. The member's written report and recommendation will be included on the recommendation sheet which shall, after the hearing, be detached and retained in the Board's records.
- 11:70-32. COUNTY PENITENTIARY CASES: The application shall be on forms prescribed and furnished by the Board. It shall be submitted through the warden or chief executive officer of the county penitentiary.
- (1) The application shall contain a certification of the warden or chief executive officer of the county penitentiary that the prisoner is eligible.
  - (2) The application shall be accompanied by up-to-date institutional staff reports and psychological and psychiatric reports.
  - (3) Upon receipt of the application the Board shall request the

probation officer of the county from which the prisoner was committed to prepare a pre-parole report reflecting the community plan to be established for the parole applicant. The report should reflect the home situation, environmental patterns, economic factors and such other relevant matters that the Board should have in properly evaluating the community plan formulated for the parole applicant.

#### Sub-Chapter E. Notice

11:70-40. PUBLIC NOTICE: Prior to considering any prisoner for release on parole and prior to the release of any prisoner on parole, the Board shall, at the appropriate time, give public notice of the name of the prisoner and the county from which, and crime for which, he was committed.

11:70-41. NOTICE TO OFFICIALS: A list of the prisoners eligible for parole and those to be released on parole shall be forwarded to all county prosecutors, judges of the county courts and the Attorney General of New Jersey.

#### Sub-Chapter F. Parole Selection Hearings

11:70-50. ELIGIBILITY: Prisoners shall become eligible for release on parole in accordance with the pertinent statutes.

- (1) The Board shall maintain a record of the eligibility dates upon which each prisoner committed to a State penal or correctional institution who is within its jurisdiction shall first be eligible for parole consideration; and on or before such date the prisoner shall be afforded a hearing, subject to other applicable provisions of these Rules and Regulations. Except for county penitentiary cases, an application for parole is not necessary and no application made by a prisoner, or on his behalf, shall be considered by the Board.
- (2) Prisoners committed to mental hospitals under sex offender legislation (N.J.S. 2A:164-3 et seq.) shall become eligible for parole consideration upon receipt of a recommendation from the Special Classification Review Board that the prisoner is capable of making a satisfactory social adjustment in the community, but the ultimate decision with regard to parolability rests solely with the State Parole Board.
- (3) Any prisoner in a county penitentiary serving a term having a maximum greater than a year and who has served at least one year, less commutation time therefrom for good behavior, shall be eligible to make application to the Board for parole.

11:70-51. GENERAL POLICY IN GRANTING PAROLE: The grant of parole rests in the discretion of the Board. In general, it is granted when the Board is of the opinion that there is reasonable probability that, if such eligible prisoner is released, he will assume his proper and rightful place in society, without violation of law, and that his release is not

incompatible with the welfare of society. No prisoner shall be released on parole merely as a reward for good behavior or efficient performance of duties assigned while under sentence. The presence of a detainer may not be of itself a valid reason for the denial of parole, but is weighed with other factors in arriving at a decision.

- 11:70-52. SITE OF HEARINGS: The Board shall conduct hearings at the State penal and correctional institutions and the county penitentiaries in accordance with a schedule to be determined by the Board.
- 11:70-53. VOTING: No release on parole shall be effected except by unanimous vote of the Board.
- 11:70-54. NOTICE OF DECISION: The Board will notify, in writing, each prisoner of the decision reached in his case as soon as possible after the hearing. In case of a denial of parole, the notice will include the date the case will again be considered if the decision orders other than the service of the maximum sentence. Two copies of the notice will be sent to the Chief Executive Officer of the institution, one to be delivered to the inmate and the other to the Institutional Parole Office. A third copy will be furnished the District Parole Office. The Board will not state in said notice, or otherwise reveal, the basis for the grant or denial of parole.
- 11:70-55. PAROLE PLAN APPROVAL: When a date for release has been set by the Board, release on that date is conditional upon the completion of a satisfactory parole plan and (see 11:70-71) continued good conduct in the institution. Release will be deferred until the Board is satisfied that the prisoner has a suitable community plan with visible means of support, or is likely to be suitably employed in self-sustaining employment upon his release. Where such plans have not been completed at the time of the hearing, the Chairman is authorized, when such plan is complete, to review it for the Board and take such action with respect thereto as he deems warranted.
- 11:70-56. SCHEDULING: To the extent practicable, a prisoner will be granted a hearing during the calendar month preceding his or her estimated date of eligibility, except where otherwise provided herein.
- 11:70-57. APPEARANCE AND ATTENDANCE: At the parole hearing only the members of the Board, a representative of the Bureau of Parole and the prisoner will be present. A prisoner eligible for parole consideration shall appear before the Board in person, except where physically unable to appear for a personal interview. Where so incapacitated, the Board may proceed to consider his case on the record and render a decision in his absence.
- 11:70-58. STATE HOSPITAL CASES: For purposes of this section, a prisoner is in "state hospital status" when he has been transferred to and is a patient at a state hospital as a result of a finding that he is mentally ill and in need of hospital treatment. A prisoner in state hospital status, and otherwise eligible to be heard by the Board, shall be heard on the record, but is not entitled to appear before

the Board until such status has been removed by return of jurisdiction to the institution. When returned, he is entitled to appear before the Board at its next meeting at the penal or correctional institution to which he has been returned.

Whenever an inmate whose name appears on a Board list for hearing is transferred to a state hospital, it shall be the responsibility of the Chief Executive Officer of the institution of confinement to notify the Board promptly, with copies of such notification to the Institutional Parole Office. Upon return of any such inmate to penal or correctional jurisdiction, it shall be the responsibility of the Chief Executive Officer of the institution of confinement to immediately notify the Board.

11:70-59. SPECIAL SEX OFFENDERS: Offenders sentenced under the provision of N.J.S. 2A:164-3 et seq., who become eligible for parole consideration by the Board, shall be transported from the institution of confinement to the State Prison or to such other place for the parole hearing as shall be directed by the Board. The institution of confinement shall prepare hearing materials in accordance with prescribed procedure.

11:70-60. FINE CASES: Where an offender's sentence includes as a part thereof a fine and costs, the Board shall, as part of its parole deliberation, determine whether that prisoner may be released on parole upon condition that he pay his fine and costs to the probation officer of the county of commitment in regular installments to be established by the Board. When during its deliberation, the Board determines that an offender is parolable but is indigent, that prisoner shall be paroled on condition that the fine and costs be paid in installments in the community. The privilege to pay the fine in the community shall also apply to that case where the Board has determined that the prisoner shall serve the maximum of the term portion of his sentence, the effect being in such case that the prisoner shall be on parole for payment of the fine only.

A prisoner alleging indigency shall complete a prescribed form and shall include as a part thereof a statement of his assets. If false information is given, it will be sufficient cause for the Board to revoke any action that may be taken on the basis of said information and return the parolee to confinement. The form shall be completed in triplicate at the time of the pre-parole interview and up-dated for any rehearing. The original shall be retained in Central Office files with copies to the Institutional Parole Office and the appropriate field District Office. The District Office will verify the information contained in the statement and will include its evaluation as to the prisoner's indigency in the pre-parole report.

The prisoner will remain on parole under supervision of the Bureau of Parole, Department of Institutions and Agencies, until his fine and costs are paid in full, even though his maximum may earlier have expired. Prior to the expiration of the term portion of the sentence, the parolee is subject to all the terms and conditions of parole, but where the said term portion has expired, he is on parole for payment of the fine and parole may be revoked only for failure to pay the fine.

The Board may increase, decrease or temporarily suspend the payment of the weekly installments to the County Probation Office as circumstances warrant.

11:70-61. INDETERMINATE SENTENCE CASES: Indeterminate sentence cases transferred to the Prison shall be considered by the Board for release on parole in accord with the following procedure:

- (1) Upon receipt of the transfer order transferring jurisdiction of an inmate to the Prison, the Chief Executive Officer of the institution of confinement shall notify the Board of the receipt of the inmate in the same manner as if the inmate had been received by direct commitment from the courts;
- (2) A Record and Eligibility Card shall be prepared for each indeterminate sentence case in the same manner as if the inmate had been received on direct commitment;
- (3) Since an inmate serving an indeterminate sentence on which jurisdiction is transferred to the Prison as above is immediately eligible for parole consideration, such cases shall be included for parole hearing on the list which is under preparation when the transfer information is received;
- (4) It shall not be necessary for the Parole Bureau to obtain pre-parole reports at the time of the first Board hearing following transfer;
- (5) An allowance in lieu of commutation, work and minimum security credits as provided in N.J.S.A. 30:4-92 and 30:4-140 shall be granted against the expiration of the maximum sentence of inmates serving indeterminate terms on which jurisdiction has been transferred to the Prison. The allowance is to be computed only on the unexpired portion of the indeterminate sentence as of the date the transfer is effected to the Prison. The maximum as adjusted shall be known as the "adjusted maximum." In accordance with N.J.S. 2A:164-10 the aforementioned allowance shall not apply to sex offenders committed pursuant to N.J.S. 2A:164-3 et seq.
- (6) Determinations with respect to the forfeiture of commutation time previously remitted, or the restoration thereof, shall be the responsibility of the Prison Board of Managers in accordance with their Rules governing such matters.

Unless otherwise indicated by the Board, the expiration of maximum sentence at the time of release shall be the "adjusted maximum." When any such prisoner is released on parole, the period of his supervision under parole shall be measured by the adjusted maximum or an established maximum in the event the Board has set a maximum date in advance of the adjusted maximum. With respect to any prisoner committed for an indeterminate term and parole has been revoked because of a violation of a condition of parole or commission of an offense which subsequently results

in conviction of a crime while on parole, even though such conviction be subsequent to the date of revocation of parole, such inmate shall be required, unless said revocation is rescinded, or unless sooner reparaoled by the Board, to serve the balance of time due on his sentence to be computed from the date of his original release on parole to the date of his adjusted maximum. If parole is revoked for reasons other than subsequent conviction for crime while on parole then the parolee, unless said revocation is rescinded, or unless sooner reparaoled by the Board, shall be required to serve the balance of time due on his sentence to be computed from the date that he was declared delinquent on parole to the date of his adjusted maximum.

11:70-62. REHEARING: Request may be made by an inmate, or by one on his behalf, for a rehearing of any case and may be granted or denied in the discretion of the Board. A rehearing shall not be granted without good cause or reason shown therefore. A request for rehearing must be made in writing and must set forth new facts and conditions, or extraordinary circumstances or facts which have arisen or existed therefore, which have not heretofore been considered by the Board and which, upon examination, would warrant such hearing. When a rehearing is granted, the case of such inmate shall be heard when specified by the Board.

11:70-63. RECONSIDERATION: The Board, having rendered a decision, may on its own motion prior to release on parole, advance, postpone or deny a parole which has been granted; or it may advance or postpone a scheduled rehearing date.

#### Sub-Chapter G. Rescission of Parole Before Effective Date

11:70-70. BASIS: The Board may nullify a previous parole decision at any time prior to the effective date of said parole if facts, circumstances or conditions are brought to the attention of the Board, which, in the exercise of its discretion, would make the parole of the subject incompatible with the welfare of society.

11:70-71. MISCONDUCT: When an effective date for release has been set by the Board, release on that date is conditioned upon the continuance of good institutional conduct. In those cases where in the opinion of the Chief Executive Officer the inmate's behavior is such that a re-evaluation of a previously established parole date should be made, then it shall be the responsibility of the Chief Executive Officer of the institution of confinement to promptly provide the Board with details of such behavior. On receipt of the information the Board shall schedule an informal interview with the prisoner to review the matter and take such action as it deems appropriate under the circumstances.

11:70-72. OTHER CASES: Parole action may also be rescinded by the Board in such cases as, but not limited to, the following: (1) where an inmate is transferred to a mental institution due to mental illness; or (2) where an inmate becomes seriously ill and no community plan is available; or (3) where a sentence is changed and parole eligibility is affected.

Where circumstances dictate, a prisoner assigned a date for release on parole may be held beyond the designated date for a period not to exceed fourteen days. Should the prisoner not be released within the aforesaid time, the Board may rescind its prior decision, and a date will be set for a rehearing.

#### Sub-Chapter H. Issuance of Parole Certificates

- 11:70-80. PREPARATION: Before being released on parole each prisoner shall be required to enter into and execute a written agreement with the Board on a form approved by the Board and designated a "parole certificate." Therein shall be stipulated the terms and conditions upon which parole has been granted, as well as a promise by the prisoner to be bound by such terms and conditions. The parole certificate shall be issued and prepared in quintuplicate, and all members of the Board shall sign the original and one copy of the certificate.
- 11:70-81. DISTRIBUTION: The responsibility for the distribution of said certificates, in accordance with directives of the Board, is vested in the Chief, Bureau of Parole, or his designated representative.

#### Sub-Chapter I. Terms and Conditions

- 11:70-90. GENERAL CONDITIONS: The following conditions are established upon which parole shall be granted and shall be incorporated in each parole certificate:
- (1) From the date of your release on parole and until the expiration of the maximum of your sentence(s), unless sooner discharged from parole, you shall continue to be in the legal custody of the Chief Executive Officer of the Institution from which you are released and under the supervision of the Bureau of Parole of the Department of Institutions and Agencies.
  - (2) You shall be required to abide by the rules and regulations formulated by the State Parole Board for the supervision of persons on parole.
  - (3) As a conditions of your being on parole, you are required to:
    - (a) Conduct yourself in society in compliance with all laws and ordinances;
    - (b) Conduct yourself with due regard to moral standards;
    - (c) Demonstrate that your conduct on parole has been good at all times;
    - (d) Demonstrate that you are a fit person to be at liberty;
    - (e) Make restitution for your crime, when required;
    - (f) Contribute to the support of your dependents;
    - (g) Abstain from the use or sale of narcotics and the excessive use of intoxicating beverages;
    - (h) Refrain from association with persons of bad character

or those who are considered by the Parole District Supervisor or his designated representative, to be undesirable companions;

- (i) Refrain from conduct while on parole which shall give reasonable cause to believe that you have resumed, or are about to resume, criminal conduct or associations;
- (j) Reside in a place approved by the Bureau of Parole;
- (k) Seek employment diligently and render to your employer the best service of which you are capable;
- (l) Report to or notify your Parole District Supervisor or his designated representative:
  - 1. As soon as possible but in any event within forty-eight hours after your release on parole from the institution;
  - 2. Whenever you are in any kind of trouble or in need of advice;
  - 3. As soon as possible after an arrest on any new charge;
  - 4. Whenever you are instructed to report by the Parole District Supervisor, his designated representative or other competent authority;
  - 5. Before paying any fine or attempting to obtain bail;
- (m) Obtain permission from your Parole District Supervisor or his designated representative:
  - 1. Before marrying or applying for a divorce;
  - 2. Before purchasing a motor vehicle, obtaining a learner's permit, a driver's license or applying for a motor vehicle registration;
  - 3. Before entering any form of conditional sales agreement or borrowing money or articles of substantial value;
  - 4. Before entering any business, changing your place of residence or changing your employment;
  - 5. Before leaving the State of your approved residence;
  - 6. Before applying for a permit to carry a firearm, securing a hunting license or carrying a firearm for any purpose.

(4) This parole may be revoked without notice:

- (a) If you violate any of the conditions of your parole, other than by subsequent conviction of crime, you shall be required to serve the time remaining on your sentence(s), to be computed from the date you are declared delinquent, unless said revocation is rescinded or unless reparaoled.
- (b) If you are convicted of a crime while on parole, or commit an offense on parole which subsequently results in a conviction of a crime, you shall be required to serve the time remaining on your sentence(s) to be computed from the date of your release on parole, unless said revocation is rescinded or unless reparaoled.

11:70-91. SPECIAL TERMS AND CONDITIONS: The Board may impose, in addition to the general conditions, such further terms and conditions as it deems necessary or warranted to govern particular cases.

11:70-92. ADDITION, ELIMINATION OR MODIFICATION: The Board may add to, eliminate or modify the conditions of parole at any time.

#### Sub-Chapter J. Supervision

11:70-100. STATE PENAL AND CORRECTIONAL CASES: All prisoners released on parole from State penal and correctional institutions shall, at all times, remain in the legal custody of the Chief Executive Officer of the institution from which paroled and shall be under the continuous supervision of the Bureau of Parole, or other authority responsible for supervision, until the expiration of the maximum periods of their sentence, or sentences, and until payment of any fine and costs; subject, however, to earlier discharge from parole in accordance with the statutes and rules pertaining thereto.

11:70-101. COUNTY PENITENTIARY CASES: All prisoners released on parole from a county penitentiary shall, at all times, remain in the legal custody of the Chief Executive Officer of the institution from which paroled, and shall be under the continuous supervision of the probation officer of the county from which committed, or other authority responsible for supervision, until the maximum term of the sentence has expired.

11:70-102. COMMUTATION TIME WHILE ON PAROLE: As to the period of time that a parolee shall remain under parole supervision, this Board establishes, as a rule, the present practice of permitting a parolee serving minimum-maximum sentences to earn commutation time for good behavior on parole in exactly the same manner as he might do while in confinement, subject also to the possibility of forfeiture of all or a portion thereof for misconduct while on parole.

#### Sub-Chapter K. Delinquencies and Violations

11:70-110. VIOLATIONS - TECHNICAL: When the Parole Officer shall have reasonable cause to believe that a parolee has resumed, or is about to resume,

criminal conduct or associations or has violated the conditions of his parole in any important respect, he may immediately issue his own warrant and arrange for the parolee's apprehension and custody and submit a recommendation as to the Declaration of Delinquency and Revocation of Parole. The case shall be referred by the Bureau of Parole no later than thirty days after the apprehension to the Chairman of the Board, who will arrange for the consideration of the case at the next regular or special meeting of the Board thereafter. If the recommendation for revocation is sustained by the Board, the Chairman shall cause a Revocation of Parole to be issued and delivered to the Bureau of Parole for immediate distribution. The receipt of such notice of revocation by the Bureau of Parole shall be sufficient notice for the Bureau to arrange for the return of the parole prisoner if not already returned on the warrant issued by the Parole Officer pending decision by the Board. When it appears that a parolee has absconded from supervision and a recommendation as to delinquency and revocation has been submitted to the Board by the Bureau of Parole, the case shall be reviewed. If the Board sustains the recommendation, the Chairman shall issue the notice of Declaration of Delinquency and Revocation of Parole directed to the parolee at his last known post office address, and issue a warrant for his retention when apprehended. Copies, where necessary, are to be distributed to those concerned.

- 11:70-111. VIOLATIONS - CONVICTION OF CRIME, ET AL.: Where a paroled prisoner has been arrested, and is serving a sentence or awaiting trial or indictment for a crime committed while on parole, and the Parole Officer supervising the case or in the area of confinement has filed his warrant as a detainer, and such facts have been transmitted to and reviewed by the Board at a regular or special meeting, a parole revocation may be issued, and a warrant issued by one of the members of the Board or by its duly constituted agent, and filed with the Chief Executive Officer of the institution of confinement as a detainer.
- 11:70-112. REPORTS: Reports of arrests and convictions and summaries of parole adjustments shall be furnished the Board by the Bureau of Parole in accordance with the procedures of that Bureau.
- 11:70-113. RELEASE ON BAIL: No warrant filed by or for the Board against a paroled prisoner shall be lifted unless the written consent of the Board or a member thereof is first secured.

#### Sub-Chapter L. Parole Revocation Hearings

- 11:70-120. HEARING DISCRETIONARY: Before acting on a proposed revocation of parole, the Board may, in its discretion, conduct a hearing giving the paroled prisoner an opportunity to appear before it and show cause why his parole should not be revoked.
- 11:70-121. SCHEDULING OF VIOLATORS: Where the parolee has been returned as a violator, a hearing on the violation of parole may be held at the next meeting of the Board, or the next but one, following the return of the offender to the institution from which paroled.
- 11:70-122. VOTING ON REVOCATION: The Board may declare a prisoner on parole to be delinquent and revoke parole by majority vote of its membership.

#### Sub-Chapter M. Discharge from Parole

- 11:70-130. CRITERIA: Any prisoner released on parole may, in the discretion of the Board, be given a complete discharge from parole prior to the expiration of the full maximum term for which he was sentenced, less credits for commutation time and diligent application to work assignments, provided that such parolee shall have completed at least two years of satisfactory adjustment while on parole. A discharge shall not be effected except upon unanimous vote of the Board, nor unless the Board is satisfied that such discharge is in the best interest of society and the welfare of the prisoner.
- 11:70-131. ORIGIN OF RECOMMENDATION: The discharge of a prisoner from parole shall be solely upon the initiative of the Bureau of Parole and no application for discharge made by a parolee, or on his behalf, shall be considered by the Board.
- 11:70-132. PAROLE BUREAU REVIEW: When a parolee has completed two years of parole supervision, the Bureau of Parole shall review the case for discharge, except as hereinafter provided. If the recommendation is favorable, a report will be submitted to the Board in triplicate, accompanied by a discharge summary. If unfavorable, a statement setting forth the reasons shall be entered on the Chronological Supervision Report, which report shall be directed to the Board.

In cases where the prisoner has been sentenced to a life term, or to a minimum and maximum term which has been treated as the equivalent of a life term for parole eligibility purposes, a recommendation for discharge will not be initiated unless at least ten years of parole supervision have elapsed.

- 11:70-133. BOARD REVIEW: The Board shall review as promptly as possible the recommendations submitted by the Bureau of Parole and notice of its decision shall be forwarded to the Bureau in duplicate. Where the Board determines that the paroled prisoner is to be discharged from parole, its notice to the Bureau shall be accompanied by six signed copies of the Discharge from Parole, which shall be distributed by the Bureau of Parole as follows: (1) original to parolee; (2) copy to the institution from which paroled; (3) copy to New Jersey parole district or other authority responsible for supervision; (4) copy to State Bureau of Identification, Division of State Police; (5) copy to Central Office files; and (6) copy to the Institutional Parole Office.

#### Sub-Chapter N. Relief from Reporting

- 11:70-140. CRITERIA: The Board, upon unanimous vote, may in writing relieve a prisoner on parole from making further reports to his parole officer, and may in writing permit such prisoner to leave the State and reside elsewhere if satisfied that such relief from reporting and such change of residence is in the best interest of society and the welfare of the prisoner.
- 11:70-141. ORIGIN OF RECOMMENDATION: The action whereby a prisoner on parole

may be relieved from making further reports and permitted to reside elsewhere shall be initiated only by the Bureau of Parole and no application for such relief made by a prisoner, or on his behalf, shall be considered by the Board.

#### Chapter 71. Certificate of Good Conduct

11:71-1. STATUTORY AUTHORITY: To assist rehabilitated convicted offenders to obtain gainful employment, the State Parole Board has been authorized to issue certificates with respect to rehabilitation. N.J.S. 2A:168A-1 et seq. Said documents shall be termed "Certificates of Good Conduct."

11:71-2. DEFINITION: The certificate of good conduct is an instrument issued by the State Parole Board which attests that the holder has achieved that degree of rehabilitation that his engaging in a certain proposed area of employment or profession would not be incompatible with the welfare of society. The certificate specifies the occupation or profession for which it is issued. The certificate does not imply pardon and under no circumstances is it to be construed as forgiving, absolving or mitigating the offense(s).

Issuance of a certificate of good conduct shall not be construed to prevent or limit any licensing agency, as defined in Chapter 282, Laws of 1968, from exercising its lawful discretion or power in either granting or refusing a license or certificate or admission to a qualifying examination, to a person to whom such a certificate shall have been granted.

11:71-3. ELIGIBILITY: An application for a certificate of good conduct shall not be entertained unless the applicant meets all of the following requirements:

- (1) The applicant has not been convicted of a high misdemeanor; and
- (2) The applicant was previously on parole under the jurisdiction of this Board; and
- (3) The applicant submits evidence to the Board that a licensing authority, as defined in Chapter 282, Laws of 1968, has required him to furnish sufficient evidence as to the achievement by the applicant of a degree of rehabilitation which indicates that his engaging in the proposed employment or profession would not be incompatible with the welfare of society; and
- (4) The applicant has neither been pardoned nor has had his record expunged; and
- (5) The applicant has not been issued, nor is there issuable, such a certificate from the United States Board of Parole, the Chief Probation Officer of a United States District Court or the Chief Probation Officer of a county; and

(6) Two years have elapsed since the applicant was released on parole.

11:71-4. PROCEDURE: The applicant will obtain an application from the State Parole Board and return the completed application in duplicate to the Board. If it is determined that the applicant is eligible for such consideration, an assignment for confidential investigation will be made. The investigation must supply the Board with a sufficiently wide range of facts to satisfy it in exercising its extensive latitude of decision, and therefore the investigation must be a thorough survey of all the pertinent legal and social information bearing on the applicant's life situation, with particular reference to the need he has and use he expects to make of the certificate. In this connection the applicant shall be required to furnish documentary evidence supporting statements made in his application, and the names of at least two references regarding his conduct during a minimum period of two consecutive years immediately preceding the date of application. The applicant shall have the right to request that the investigator refrain from contacting certain individuals such as employers and business associates. The investigator shall note in his report to the Board the limits placed by the applicant on the inquiry and such limitation will be evaluated by the Board in its consideration of the case. The applicant at any time has the right to withdraw his application and have the investigation terminated.

11:71-5. CRITERIA: The Board determines worthiness for a certificate on the basis of good moral character and acceptable conduct in the community, and the Board is allowed discretion in deciding what constitutes good character. It can go into any group of elements in the total picture as a basis for its decision.

11:71-6. DETERMINATION: The Board will grant a certificate of good conduct upon unanimous vote of its members, and a copy of the certificate will be filed with the Secretary of State. The granting of a certificate of good conduct is in the sole discretion of the Board and reasons shall not be assigned for the grant or denial of a certificate.

11:71-7. REFILING: When an application for a certificate has been denied, another application shall not be considered unless: (1) two years have elapsed since the date that the prior application was denied; or (2) it shall be determined that there are facts justifying the application which could not, with reasonable diligence, have been brought forward when the application was first filed.

11:71-8. REVOCATION: The Board may in its discretion revoke a certificate of good conduct without notice by majority vote of its members.

## Chapter 72. Executive Clemency

### Sub-Chapter A. Constitutional Authority

11:72-1. The power of pardoning is vested in the Governor by Article 5,

Section II, paragraph 1, of the Constitution of New Jersey (1947). See also N.J.S. 2A:167-7 and N.J.S.A. 30:4-123.33. The general power of pardoning offenses necessarily includes the lesser power of remission and commutation. In re N.J. Court of Pardons, 97 N.J. Eq. 555 (Ch. 1925). The Rules contained in this chapter have been approved by the Governor and define how the Board acts within the limits imposed by statutes and the authority conferred by the Governor.

#### Sub-Chapter B. Definitions

- 11:72-2. EXECUTIVE CLEMENCY: This term is synonymous with the "pardoning power" vested in the Governor and refers to the various forms of that power which the chief executive may dispense at his discretion with respect to offenses against this State.
- 11:72-3. PARDON: This is the highest form of executive clemency and, if granted, acquits the offender of any and all forfeitures annexed to the offense for which he obtains a pardon.
- 11:72-4. RESTORATION TO THE RIGHT OF SUFFRAGE: This form of executive clemency, if granted, restores to the petitioner the right to vote which was lost by virtue of conviction of a disenfranchising offense in this or another jurisdiction. Conviction of certain offenses, whether such conviction results in a sentence of confinement or not, results in the loss of the right to vote, which right may be restored by order of the Governor. See N.J.S. 18A:14-70, 18A:14-94, and 18A:14-95 and 18A:14-96; also N.J.S.A. 19:4-1, 19:31-17, 19:34-4, 19:34-25, 19:34-46 and 19:34-47.
- 11:72-5. COMMUTATION OF SENTENCE: That form of executive clemency which, if granted, changes the punishment imposed for a conviction from a greater to a lesser one.
- 11:72-6. REMISSION OF FINE: That form of executive clemency which, if granted, releases the petitioner from the obligation of paying a fine or a portion thereof. The Governor may also remit costs and/or forfeitures imposed upon conviction of an offense.
- 11:72-7. REPRIEVE: This term refers to the power of the Governor to grant a temporary suspension of the execution of a sentence.
- 11:72-8. BOARD: This term, as used herein, means the New Jersey State Parole Board.
- 11:72-9. EXPUNGEMENT: This is not a form of executive clemency, but is a form of relief obtained in a judicial proceeding pursuant to N.J.S. 2A:164-28.

#### Sub-Chapter C. Eligibility

- 11:72-15. GENERAL ELIGIBILITY REQUIREMENTS: Any person who has been convicted of an offense against the State of New Jersey may petition the Governor for executive clemency provided the requirements set forth

in this subchapter are met.

- 11:72-16. PARDON: An application for this form of clemency shall not be entertained: (1) in cases involving homicide, unless at least ten years have elapsed since the applicant was discharged from confinement, or parole supervision or probation; or (2) in all other cases, unless (a) five years have elapsed since the applicant was discharged from confinement, or parole supervision or probation; or (b) five years have elapsed since the conviction of the applicant, where the applicant was not committed to an institution or placed on probation. Excepted from the time limitations herein is a pardon to avoid deportation.
- 11:72-17. RESTORATION TO THE RIGHT OF SUFFRAGE: An application for this form of clemency shall not be entertained: (1) unless two years have elapsed since the applicant was released on parole or at the expiration of the sentence; or (2) unless two years have elapsed since the conviction of the applicant, where applicant was not committed to an institution.
- 11:72-18. COMMUTATION OF SENTENCE: An application for this form of clemency shall not be entertained:
- (1) Unless all available judicial remedies have been exhausted in cases where sentence of death has been imposed; or
  - (2) Unless the applicant has served six months of a term with a maximum of one year or less; or
  - (3) Unless the applicant has served one year of a term with a maximum exceeding one year; or
  - (4) Unless the applicant shall have become so ill as to be without prospect of recovery under conditions of confinement; or
  - (5) Unless all legal remedies have been exhausted or the time limit for pursuing same has expired, and it shall be determined that there are facts justifying the application which could not, with reasonable diligence, have been brought forth at the trial.
- 11:72-19. REMISSION OF FINE: An application for this form of clemency shall not be entertained: (1) unless the applicant is otherwise eligible for release from confinement; or (2) unless the applicant is at liberty in the community.
- 11:72-20. REPRIEVE: The Governor will entertain requests for reprieve only from persons under sentence of death and only after all available judicial remedies have been exhausted, or the time limit for pursuing same has expired.
- 11:72-21. INELIGIBLE OFFENSES: Except where otherwise directed by the Governor, the Board will not entertain petitions for executive clemency in cases involving motor vehicle violations.

11:72-22. WAIVER: The State Parole Board may, upon the approval of the Governor, waive any of the time limitations contained in this subchapter. Such a waiver, if granted, does not indicate that the requested clemency will receive favorable consideration, but rather that the applicant is being given an earlier opportunity to file than would normally be allowed. The Board shall advise all interested parties upon the grant or denial of a waiver.

Sub-Chapter D. Forms, Application, Petition,  
Incomplete Petitions

11:72-25. FORMS: An "application" is that document which is initially completed by an applicant as a basis for determining eligibility to file for executive clemency. If eligible, "petitions" will be forwarded to the applicant. The application and the subsequent petition are forms prescribed by the Board.

11:72-26. APPLICATION: This document shall be obtained from the State Parole Board as follows:

- (1) Person who are confined in an institution within New Jersey shall obtain the prescribed application forms from the Chief Executive Officer of the institution of confinement. The Chief Executive Officer shall not deny any inmate the opportunity to file for executive clemency. Completed applications shall be returned to the Board through the aforesaid Chief Executive Officer.
- (2) All other applicants or their agents shall obtain the prescribed application forms by writing to or appearing at the office of the State Parole Board. Completed applications shall be returned to the State Parole Board.

11:72-27. DETERMINATION OF ELIGIBILITY: Upon receipt of a completed application the Board shall determine the eligibility of the applicant to petition for executive clemency. (1) Where ineligible, the Board shall notify the applicant by mail, and include in such notice the reason for the determination, and, if applicable, the date on which the applicant will become eligible. (2) Where eligible, the Board shall forward petition forms for completion.

11:72-28. PETITION: This document shall briefly set forth the facts of the case, the reasons justifying the grant of executive clemency and other pertinent data. (1) Petitions for eligible applicants who are confined in an institution shall be forwarded by mail to the applicant through the Chief Executive Officer of the institution of confinement, who shall render any necessary assistance in completing the petition. Completed petitions shall be returned to the Board through the aforesaid Chief Executive Officer, and it shall be his duty to cause to be prepared and attached to each petition, current classification material, which shall include psychiatric, psychological and medical reports, reports of the petitioner's institutional adjustment and his attitudes toward society

and recommendations from members of the institutional staff as to the suitability of the petitioner to receive the requested clemency. In such cases as the Board deems appropriate, the Chief of the Bureau of Parole in the Department of Institutions and Agencies or the Chief Probation Officer of a county shall be requested to complete an investigation of any proposed community plan of the petitioner and furnish the Board with an evaluation of the factors relating to such plan.

(2) Petitions for eligible applicants who are at liberty in the community shall be forwarded to the applicant or his agent by mail together with a request for such supporting documents as the Board deems appropriate. The petition shall be completed by the petitioner and executed before a person authorized to take oaths. Completed petitions shall be returned to the Board, together with such supporting documents as the Board shall request, and any other documents as the petitioner may wish to submit for consideration.

11:72-29. TESTIMONIAL LETTERS: Each petitioner for pardon or restoration to the right of suffrage shall be requested to supply testimonials from at least two responsible persons who have had knowledge of the petitioner's community adjustment for at least two years preceding the filing of the petition. Such testimonials shall be addressed to the Governor and filed with the Board. If possible, the testimonials should be from individuals who are aware of the offense(s) for which clemency is sought and the petitioner who does not supply the requested testimonials shall, in lieu thereof, attach to the petition a statement setting forth the reasons for the alleged inability to supply such testimonials, and such statement will be evaluated by the Board in its consideration of the case.

11:72-30. INCOMPLETE PETITIONS: In any case in which the Board shall determine that the petitioner has deliberately failed to supply requested documents or deliberately failed to complete the petition in any substantial respect, the Board may disqualify the petitioner from filing. In such case the Board shall so notify the petitioner and a petition for that or any other form of clemency shall not be entertained until two years have elapsed from the date of such notice.

#### Sub-Chapter E. Investigation

11:72-35. SCOPE: The Board shall cause a confidential investigation to be made of the facts and circumstances with respect to each petition for executive clemency. The investigation will include an evaluation of the criminal record, present circumstances, reputation and character of the petitioner. The investigation will be a thorough survey of all the pertinent legal and social information bearing upon the petitioner's life situation, with particular reference to the need he has for the requested clemency, and his plans if the requested clemency should be granted.

11:72-36. INTERVIEW: Each petitioner will be requested to appear for a confidential interview to be conducted by a designated agent of the Board, subject to such exceptions as the Board deems warranted. Failure to appear for a requested interview will result in the Board closing the

petitioner's clemency file. Counsel for petitioner, if any, may appear at the interview with the petitioner. However, appearance by counsel is not required.

- 11:72-37. DOCUMENTS: The petitioner may be required to furnish documentary evidence supporting statements made in, or in connection with, the petition, e.g., the Board may request the petitioner to verify his or her employment, financial status, military service, marital status and any other matters that the Board deems appropriate.
- 11:72-38. LIMITATIONS ON INVESTIGATION: Petitioner shall have the right to request the Board to refrain from contacting individuals such as employers, business associates, family or friends. The investigator shall note in his report to the Board the limits placed by the petitioner on the inquiry and such limitations will be evaluated by the Board in its consideration of the case.
- 11:72-39. INVESTIGATION TERMINATION AT PETITIONER'S REQUEST: The petitioner shall have the right to have the investigation terminated at any time by giving written notice to the Board. In such cases the Board will close the petitioner's clemency file and another petition shall not be entertained until two years have elapsed from the date of receipt of such notice.
- 11:72-40. PUBLICATION: The Board shall forward notice of petitions received to such judicial and law enforcement agencies as the Board deems appropriate. Said notice will be deemed competent authority for any such agency to transmit to the Board copies of such records as the agency may have with respect to any petitioner. Judicial and law enforcement agencies, as used herein, shall include, but shall not be limited to, the offices of the prosecutors, federal and state attorneys general, court clerks, probation officials, judges, sheriffs, municipal and state police and the Federal Bureau of Investigation. The Board may request officials of any judicial or law enforcement agency to comment on the merits of any petition.

#### Sub-Chapter F. Clemency Review and Hearings

- 11:72-45. BOARD CONSIDERATION: The Board shall review all petitions for executive clemency and make a report and recommendation to the Governor in each case as provided in this subchapter. Except where directed, no hearing on a petition shall be held. The Board shall not consider any questions regarding the correctness, regularity or legality of court proceedings, but shall confine itself solely to matters which properly bear upon the propriety of the extension of clemency to the petitioner. The Board shall not divulge to petitioner, his attorney or his agent the reasons for or its recommendation to the Governor.
- 11:72-46. COMMUTATION OF SENTENCE OF DEATH: Each petitioner for commutation of sentence of death shall be represented by counsel, either retained or assigned by the Office of the Public Defender. Upon receipt of a petition for commutation of sentence of death, the Board shall notify the prosecutor of the county of commitment and the trial and/or sentencing judge. Upon receipt of the notice, the prosecutors and judges may for-

ward written comments to the Board for presentation to the Governor. The Governor will assign a time and place of the hearing to consider the petition, which hearing will be conducted by the Governor with the Board sitting in an advisory capacity. The prosecutor of the county of commitment or his duly authorized representative will attend the hearing, as will counsel representing the petitioner. Oral arguments shall be presented by counsel supported by briefs or memoranda of law. The Governor will advise counsel of his decision subsequent to the meeting. Where the Governor commutes the sentence of death, an order to that effect shall be issued and delivered to the principal keeper of the State Prison, which order will be retained in the office of the principal keeper. Upon receiving such order, the principal keeper shall refrain from executing the sentence of death and shall detain such person for the term to which the sentence was commuted.

11:72-47. OTHER CASES: At least once each month the Board will meet to consider those cases, other than commutation of sentence of death, on which investigation has been completed. Only members of the Board and its staff shall be present at the meeting. The Board shall vote on each petition, and as soon thereafter as is reasonably possible, it shall submit to the Governor a written report and recommendation on each petition. In cases where a member of the Board dissents, a minority report shall also be submitted to the Governor.

#### Sub-Chapter G. Determination of the Governor

11:72-50. The Board shall submit to the Governor with its report and recommendation all materials received in connection with each petition. The Governor will give notice of his decision to the petitioner by mail, with copy to the Board. Upon being notified of the Governor's decision, the Board shall promptly notify the petitioner's attorney, if any, and such other person entitled to be apprised of the determination. Where clemency is granted, the Board shall notify the Bureau of Identification in the Division of State Police, and said Bureau shall upon receipt of such notice make appropriate entries in their records.

#### Sub-Chapter H. Refiling of Petitions

11:72-55. Where a petition for clemency has been denied, another petition for any form of clemency shall not be entertained unless:

- (1) Two years have elapsed since the date the prior petition was denied; or
- (2) The person applying shall have become so ill as to be without prospect of recovery under the conditions of confinement; or
- (3) It shall be determined that there are facts justifying the re-filing which could not, with reasonable diligence, have been brought forward when petition was first filed; or
- (4) The Governor's denial indicated a date for such reconsideration; or

(5) The Governor shall authorize such refiling.

Sub-Chapter I. Form of Clemency Orders

11:72-60. The Governor shall prescribe the forms for all orders of executive clemency.

Chapter 73. Administrative Matters

11:73-1. CONFERENCES: Conferences with attorneys or other persons interested in parole matters shall be with the Chairman; and except where otherwise directed by the Governor, clemency conferences shall also be held by the Chairman.

11:73-2. PRIVACY OF RECORDS: All official files, documents and records in the offices of the State Parole Board, in the custody of any official or member of the Board or kept or caused to be maintained by an official for the Board, pertaining to either matters of executive clemency or parole (including supervision) are confidential.

(1) Executive Clemency: Unless authorized by the Governor, no record, document, paper, exhibit or other official instrument in writing, pertaining to a petition for executive clemency, shall be withdrawn from the file or furnished to or inspected by any person or entity.

(2) Parole Matters: Unless authorized by the Board, no record, document, paper, exhibit or other official instrument in writing, pertaining to parole which by this Rule has been declared confidential, shall be withdrawn from the file or furnished to or inspected by any person or entity other than a duly authorized representative of the State Parole Board, the Commissioner of the Department of Institutions and Agencies or an employee of the Division of Correction and Parole.

11:73-3. RELEASE OF INFORMATION: Except where authorized by the Governor, all statements and information relative to a clemency petition shall emanate from the office of the Governor. As to parole matters, the Chairman of the Board is vested with the responsibility of releasing information.