

11. Cooperate in any medical and/or psychological examination or tests as directed by the assigned parole officer;

12. Participate in and successfully complete an appropriate community or residential counseling or treatment program as directed by the assigned parole officer;

13. Submit to drug or alcohol testing at any time as directed by the assigned parole officer;

14. Obtain the permission of the assigned parole officer prior to securing, accepting or engaging in any employment, business or volunteer activity and prior to a change of employment;

15. Notify promptly the assigned parole officer upon becoming unemployed;

16. Refrain from any contact (verbal, written or through a third party) with the victim(s) of the offense unless contact is authorized by the assigned parole officer;

17. Comply with any curfew established by the assigned parole officer;

18. Refrain from behavior which results in the issuance of a final restraining order pursuant to the Prevention of Domestic Violence Act, N.J.S.A. 2C:25-17 et seq., or the provisions of a similar Federal or state statute;

19. Refrain from any contact (written or otherwise) with any group, club, association or organization that engages in, promotes or encourages illegal or sexually deviant behavior;

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

21. 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 community supervision for life. You shall submit to a polygraph examination as directed by the District Parole Supervisor; and

22. 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.

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

1. Refrain from initiating, establishing or maintaining contact with any minor; and

2. Refrain from attempting to initiate, establish or maintain contact with any minor; and

3. Refrain from residing with any minor without the prior approval of the district parole supervisor or designated representative.

(d) The following circumstances are deemed exceptions to the conditions specified in (c)1 and 2 above:

1. When the minor is engaged in a lawful commercial or business activity, the offender may engage in the lawful commercial or business activity, provided the activity takes place in an area open to the public view;

2. When the minor is in the physical presence of his or her parent or legal guardian (the offender may not be the parent or legal guardian);

3. When the offender is present in a public area, as long as the offender is not associating with a minor, and the public area is not one frequented mainly or exclusively by minors;

4. When the appropriate court may authorize contact with a minor; or

5. When the district parole supervisor or designated representative may authorize the offender to have contact with a minor.

(e) If the sentencing court determines that the conduct of the person convicted of an offense specified in (a) above was characterized by a pattern of repetitive and compulsive behavior and commits the offender to the Adult Diagnostic and Treatment Center for a program of specialized treatment, the offender serving a special sentence of community supervision for life shall, in addition to the conditions specified in (b) and (c) above, participate in and successfully complete any program of counseling or therapy identified by the treatment staff of the Adult Diagnostic and Treatment Center.

(f) If the sentencing court determines that the conduct of the person convicted of an offense specified in (a) above was characterized by a pattern of repetitive and compulsive behavior and if upon release from confinement the appropriate county prosecutor determines pursuant to N.J.S.A. 2C:7-8 that the offender is a high risk to re-offend, and if the appropriate court affirms the determination of the county prosecutor, the offender serving a special sentence of community supervision for life shall refrain from the use of alcohol, in addition to the conditions specified in (b), (c), (e) and (f) above.

(g) Prior to an offender, subject to the provisions of N.J.S.A. 2C:43-6.4, being released from custody at the expiration of the term of incarceration or being terminated from probation or parole supervision at the expiration of the term of probation or incarceration respectively, the appropriate

Board panel shall issue a written certificate which shall be delivered to the offender by a designated representative of the Board.

(h) The certificate shall include the conditions of community supervision for life as specified in (b), (c), (e), (f) and (g) above.

(i) At the time of delivery of the certificate, the conditions of community supervision for life shall be explained to the offender.

(j) The offender shall be required to acknowledge in writing receipt of the certificate. If the offender refuses to acknowledge in writing receipt of the certificate, the designated Board representative shall make a written record of the delivery of the certificate and the refusal of the offender to acknowledge receipt of the certificate.

(k) Additional special conditions may be imposed by the District Parole Supervisor, an Assistant District Parole Supervisor or the designated representative of the District Parole Supervisor when it is the opinion 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. Upon notice being received by the Board, the appropriate Board panel shall review the offender's case and determine whether to vacate, modify or affirm the additional special condition(s).

2. The Board panel shall notify the District Parole Supervisor of its determination within three working days of receipt of notice of the imposition of the additional special condition(s).

3. The District Parole Supervisor shall notify the offender in writing of the determination of the Board panel and shall cause a written record of such notice to be made in the offender's case file.

4. A special condition shall not be deemed effective until affirmed by the appropriate Board panel.

(l) Pursuant to N.J.S.A. 2C:43-6.4(d), an offender who violates a condition of a special sentence of community supervision without good cause is guilty of a crime of the fourth degree.

(m) An offender shall remain under community supervision for life until such time as the appropriate court shall terminate the supervision status pursuant to N.J.S.A. 2C:43-6.4(c).

(n) The search of an offender serving a special sentence of community supervision for life shall be conducted in accordance with N.J.A.C. 10A:72-6.

New Rule, R.1998 d.144, effective March 16, 1998.
See: 29 N.J.R. 4243(a), 30 N.J.R. 1044(a).

Amended by R.1998 d.391, effective August 3, 1998.

See: 30 N.J.R. 1176(a), 30 N.J.R. 2920(a).

In (h), inserted a new 10 and 11, and recodified former 10 through 12 as 12 through 14.

Amended by R.2000 d.50, effective February 7, 2000.

See: 31 N.J.R. 3579(a), 32 N.J.R. 472(b).

Inserted (b)22.

Amended by R.2002 d.175, effective June 3, 2002.

See: 34 N.J.R. 359(a), 34 N.J.R. 1918(b).

In (j), deleted "or Bureau of Parole, as appropriate" following "representative of the Board"; in (m), deleted "or Bureau of Parole" following "designated Board".

Amended by R.2005 d.127, effective April 18, 2005.

See: 36 N.J.R. 4407(a), 37 N.J.R. 1191(b).

Rewrote the section.

Amended by R.2008 d.168, effective June 16, 2008.

See: 39 N.J.R. 5049(a), 40 N.J.R. 3726(b).

In (b)19, deleted "and" from the end; in (b)20, substituted "a" for "the assigned" preceding "parole officer" and substituted "and" for a period at the end; and added (b)21.

Amended by R.2010 d.274, effective December 6, 2010.

See: 42 N.J.R. 1296(a), 42 N.J.R. 2960(a).

In (b)4, inserted "or the provisions of a similar Federal or state statute,"; in (b)18, inserted "or the provisions of a similar Federal or state statute"; in (b)20, deleted "and" from the end; in (b)21, substituted "and" for a period at the end; added (b)22; in (c)3, substituted "district parole supervisor or designated representative" for "assigned parole officer"; in the introductory paragraph of (d), inserted "1 and 2"; in (d)2, inserted "(the offender may not be the parent or legal guardian)"; in (d)3, deleted "or" from the end; in (d)4, substituted "or" for a period at the end; added (d)5; deleted former (f); and recodified former (g) through (o) as (f) through (n).

Case Notes

Community-supervised-for-life offender, who, for some time, has been released into the community, must be afforded due process of law before the New Jersey State Parole Board can impose a curfew confining the offender to his home. The level of process will depend on a number of variables and the unique circumstances of each case but, at a minimum, a supervised offender must be provided reasonable notice and a meaningful opportunity to be heard. *Jamgochian v. New Jersey State Parole Bd.*, 196 N.J. 222, 952 A.2d 1060, 2008 N.J. LEXIS 899 (2008).

Statute requiring persons subject to community supervision for life (CSL) be treated in accordance with laws and regulations pertaining to paroled persons, when read in conjunction with Parole Act, and CSL regulations, was not unconstitutionally vague, as it provided adequate notice that use of controlled dangerous substance (CDS) by defendant, who was subject to CSL, was prohibited, and defendant received full written notice of conditions of CSL, one of which proscribed use of a CDS. *State v. Bond*, 365 N.J.Super. 430, 839 A.2d 888.

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, aggravated criminal sexual contact, kidnapping pursuant to N.J.S.A. 2C:13-1(c)2, engaging in sexual conduct which 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.

(b) The special sentence of parole supervision for life shall commence pursuant to N.J.S.A. 2C:43-6.4(b) immediately

upon the offender's release from incarceration. If the offender is serving a sentence of incarceration for another offense at the time the offender completes the custodial portion of the sentence imposed on the present offense, the special sentence of parole supervision for life shall not commence until the offender is actually released from incarceration for the other offense.

(c) Pursuant to N.J.S.A. 2C:43-6.4(b), an offender sentenced to a special sentence of parole supervision for life shall remain in the legal custody of the Commissioner. The offender shall be supervised by the Division of Parole and shall be subject to the provisions and conditions established pursuant to (d) below; subject to any special conditions established by the appropriate Board panel; and subject to any conditions imposed by the sentencing court.

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

1. Obey all laws and ordinances;
2. Report to the assigned parole officer as instructed;
3. Notify the assigned parole officer immediately after any arrest, after being served with or receiving a complaint or summons and after accepting any pre-trial release including bail;
4. Notify the assigned parole officer immediately upon the issuance by the appropriate court, pursuant to the Prevention of Domestic Violence Act, N.J.S.A. 2C:25-17 et seq., or under the provisions of a similar Federal or state statute, of an order granting emergency relief, a temporary or final restraining order or an order establishing conditions of release or bail in a criminal matter or offense arising out of a domestic violence situation, and comply with any condition established within the respective order until the order is dissolved by the appropriate court or until a condition is modified or discharged by the appropriate court;
5. Reside at a residence approved by the assigned parole officer;
6. Obtain the permission of the assigned parole officer prior to any change of residence;
7. Obtain the permission of the assigned parole officer prior to leaving the state of the approved residence for any purpose;
8. Refrain from owning or possessing any firearm, as defined in N.J.S.A. 2C:39-1f, for any purpose;
9. Refrain from owning or possessing any weapon enumerated in N.J.S.A. 2C:39-1r;
10. Refrain from the purchase, use, possession, distribution or administration of any narcotic or controlled dangerous substance, controlled dangerous substance analog, imitation controlled dangerous substance or any paraphernalia related to such substances except as prescribed by a physician;

11. Cooperate in any medical and/or psychological examination or tests as directed by the assigned parole officer;

12. Participate in and successfully complete an appropriate community or residential counseling or treatment program as directed by the assigned parole officer;

13. Submit to drug or alcohol testing at any time as directed by the assigned parole officer;

14. Obtain the permission of the assigned parole officer prior to securing, accepting or engaging in any employment, business or volunteer activity and prior to a change of employment;

15. Notify the assigned parole officer immediately of any change in employment status;

16. Refrain from any contact (verbal, written or through a third party) with the victim(s) of the offense unless contact is authorized by the assigned parole officer;

17. Comply with any curfew established by the assigned parole officer;

18. Refrain from behavior which results in the issuance of a final restraining order pursuant to the Prevention of Domestic Violence Act, N.J.S.A. 2C:25-17 et seq., or under the provisions of a similar Federal or state statute;

19. Refrain from operating a motor vehicle without a valid driver's license;

20. Refrain from any contact (written or otherwise) with any group, club, association or organization that engages in, promotes or encourages illegal or sexually deviant behavior;

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

22. Make payment to the Division of Parole of any assessment, fine, penalty or restitution imposed by the sentencing court;

23. 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 the District Parole Supervisor; and

24. 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.

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

1. Refrain from initiating, establishing or maintaining contact with any minor;
2. Refrain from attempting to initiate, establish or maintain contact with any minor; and
3. Refrain from residing with any minor without the prior approval of the district parole supervisor or designated representative.

(f) The following circumstances are deemed exceptions to the conditions specified in (e)1 and 2 above:

1. When the minor is engaged in a lawful commercial or business activity, the offender may engage in the lawful commercial or business activity, provided the activity takes place in an area open to the public view;
2. When the minor is in the physical presence of his or her parent or legal guardian (the offender may not be the parent or legal guardian);
3. When the offender is present in a public area, as long as the offender is not associating with a minor, and the public area is not one frequented mainly or exclusively by minors;
4. When the appropriate court may authorize contact with a minor; or
5. When the district parole supervisor or designated representative may authorize the offender to have contact with a minor.

(g) If the sentencing court determines that the conduct of the person convicted of an offense specified in (a) above was characterized by a pattern of repetitive and compulsive behavior and commits the offender to the Adult Diagnostic and Treatment Center for a program of specialized treatment, the offender serving a special sentence of parole supervision for life shall, in addition to the conditions specified in (d) and (e) above, participate in and successfully complete any program of counseling or therapy identified by the treatment staff of the Adult Diagnostic and Treatment Center.

(h) If the sentencing court determines that the conduct of the person convicted of an offense specified in (a) above was characterized by a pattern of repetitive and compulsive behavior and if upon release from confinement the appropriate county prosecutor determines pursuant to N.J.S.A. 2C:7-8 that the offender is a high risk to re-offend and the appropriate court affirms the determination of the county prosecutor, the offender serving a special sentence of parole supervision for life shall, in addition to the conditions specified in (d), (e), (g) and (h) above, refrain from the use of alcohol.

(i) Prior to an offender, subject to the provision of N.J.S.A. 2C:43-6.4, being released from custody at the expiration of the term of incarceration or being terminated from parole supervision, the appropriate Board panel shall issue a written certificate which shall be delivered to the offender by a designated representative of the Board.

(j) If the sentencing court suspends the imposition of sentence and the offender immediately commences the service of the special sentence of parole supervision for life the appropriate Board panel shall issue, as soon as administratively possible, a written certificate which shall be delivered to the offender by a designated representative of the Board.

(k) The certificate shall include the conditions of parole supervision for life as specified in (d), (e), (g), (h) and (i) above and any special condition established by the Board panel. If the sentencing court suspends the imposition of sentence and the offender immediately commences the service of the special sentence of parole supervision for life, the certificate shall also include, as a special condition, any condition(s) established by the sentencing court.

(l) At the time of delivery of the certificate, the conditions of parole supervision for life shall be explained to the offender.

(m) The offender shall be required to acknowledge, in writing, receipt of the certificate. If the offender refuses to acknowledge, in writing, receipt of the certificate, the designated Board representative shall make a written record of the delivery of the certificate and the refusal of the offender to acknowledge receipt of the certificate.

(n) Additional special conditions may be imposed by the District Parole Supervisor, an Assistant District Parole Supervisor or the designated representative of the District Parole Supervisor when it is the opinion 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 (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 (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. Upon notice being received by the Board, the appropriate Board panel upon review may determine to vacate or modify the special condition. The Board panel shall notify the District Parole Supervisor in writing of its determination.

4. A special condition requiring the offender to notify an employer or intended employer of his or her parole supervision for life status and criminal record shall not be deemed effective until affirmed by the appropriate Board panel.

(o) As authorized by N.J.S.A. 30:4-123.51b(c), an offender's parole supervision for life status may be revoked for a violation of any condition of supervision and the offender returned to custody in accordance with the provisions of N.J.S.A. 30:4-123.60 to 123.63 and 123.65 and the provisions of N.J.A.C. 10A:71-7 as appropriate.

(p) If an offender's parole supervision for life status is revoked by the appropriate Board panel and the offender is returned to custody, the offender shall serve the following time period in confinement upon the initial revocation:

1. Eighteen months if the offender has committed a crime of the first degree;
2. Sixteen months if the offender has committed a crime of the second degree; or
3. Fourteen months if the offender has committed a crime of the third degree;
4. Twelve months if the offender has committed a crime of the fourth degree or any other offense, or violated any other condition of supervision.

(q) For each subsequent revocation of an offender's parole supervision for life status, the offender shall serve an additional time period of two months in excess of the term imposed for the initial or a subsequent revocation regardless of the basis for the initial or subsequent revocation action. Any time period established upon the revocation of an offender's parole supervision for life status shall not, pursuant to N.J.S.A. 30:4-123.51b(c), exceed 18 months.

(r) The time period established pursuant to (q) or (r) above shall not, pursuant to N.J.S.A. 30:4-123.51b(c), be reduced by commutation time for good behavior (N.J.S.A. 30:4-140) or credits for diligent application of work and other institutional assignments (N.J.S.A. 30:4-92).

(s) In accordance with N.J.S.A. 30:4-123.51b(c), the time period to be served pursuant to (q) or (r) above shall not for the purpose of establishing a primary parole eligibility date pursuant to N.J.S.A. 30:4-123.51(h) be aggregated with a term of imprisonment imposed on the offender for the commission of any other offense.

(t) Upon the completion of the time period established pursuant to (q) or (r) above, the offender shall be released from confinement unless the offender is serving a sentence of incarceration for another crime. Upon the offender being released from confinement the offender shall remain under parole supervision for life.

(u) An offender shall remain under parole supervision for life until such time as the appropriate court shall terminate the supervision status pursuant to N.J.S.A. 2C:43-6.4(c).

(v) The search of an offender serving a special sentence of parole supervision for life shall be conducted in accordance with N.J.A.C. 10A:72-6.

New Rule, R.2005 d.127, effective April 18, 2005.

See: 36 N.J.R. 4407(a), 37 N.J.R. 1191(b).

Amended by R.2008 d.168, effective June 16, 2008.

See: 39 N.J.R. 5049(a), 40 N.J.R. 3726(b).

In (d)20, deleted "and" at the end; in (d)21, substituted "a" for "the assigned" preceding "parole officer" and substituted a semicolon for the period at the end; added (d)22 and (d)23; and in (l), inserted the second sentence.

Amended by R.2010 d.274, effective December 6, 2010.

See: 42 N.J.R. 1296(a), 42 N.J.R. 2960(a).

In (d)4, inserted "or under the provisions of a similar Federal or state statute,"; in (d)18, inserted "or under the provisions of a similar Federal or state statute"; in (d)22, deleted "and" from the end; in (d)23, substituted "and" for a period at the end; added (d)24; in (e)3, substituted "district parole supervisor or designated representative" for "assigned parole officer"; in the introductory paragraph of (f), inserted "1 and 2"; in (f)2, inserted "(the offender may not be the parent or legal guardian)"; in (f)3, deleted "or" from the end; in (f)4, substituted "or" for a period at the end; added (f)5; deleted former (h); and recodified former (i) through (w) as (h) through (v).

Administrative correction.

See: 43 N.J.R. 188(b).

10A:71-6.13 Polygraph examinations

(a) Pursuant to N.J.S.A. 30:4-123.88, the Board, on at least an annual basis, may administer to all offenders serving a special sentence of community or parole supervision for life, imposed pursuant to N.J.S.A. 2C:43-6.4, polygraph examinations in order to obtain information necessary for risk management and treatment and to reduce the offender's denial mechanisms.

(b) A polygraph examination shall be conducted by a polygrapher trained specifically in the use of the polygraph for monitoring of sex offenders, where available, and shall be paid for by the offender.

(c) The results of the polygraph examination shall not be used as evidence in court to prove that a violation of the special sentence of community or parole supervision for life or condition of discharge pursuant to N.J.S.A. 30:4-27.36 has occurred.

New Rule, R.2008 d.168, effective June 16, 2008.

See: 39 N.J.R. 5049(a), 40 N.J.R. 3726(b).

SUBCHAPTER 7. REVOCATION OF PAROLE

10A:71-7.1 Commencement of revocation proceedings

Whenever the parole officer has probable cause to believe that a parolee under his supervision has seriously or persistently violated the conditions of parole, the parole officer

shall file a report with the District Parole Supervisor requesting the commencement of revocation proceedings.

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 are hereby authorized to issue warrants on behalf of the Chairperson.

(c) In the absence of the individual(s) authorized to issue warrants pursuant to (b) above, such individual(s) shall designate an acting chief or acting supervisor for the purpose of issuing warrants.

(d) If an emergency exists and if the individual(s) authorized to issue warrants pursuant to (b) and (c) above are not available, a parole officer may issue a warrant pending review by the individual(s) authorized to issue warrants pursuant to (b) and (c) above.

1. When a warrant is issued pursuant to (d) above, the individual(s) authorized to issue warrants pursuant to (b) or (c) above shall review the basis for the issuance of such warrant within 48 hours of the issuance of the warrant.

2. If such individual determines that the issuance of the warrant is not necessary, the warrant shall be immediately withdrawn.

(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.

Amended by R.1985 d.213, effective May 6, 1985.
See: 16 N.J.R. 3391(a), 17 N.J.R. 1096(a).

(b) deleted "of the Board"; (c) added "the basis for the issuance of".
Amended by R.1997 d.168, effective April 7, 1997.
See: 28 N.J.R. 3870(a), 29 N.J.R. 1318(a).

In (b), inserted reference to designated supervisory representatives of the Commission.

Amended by R.2000 d.50, effective February 7, 2000.
See: 31 N.J.R. 3579(a), 32 N.J.R. 472(b).

In (b), substituted a reference to the Director of Parole for a reference to the Chief of the Bureau of Parole, and inserted a reference to Supervising Parole Officers.

Amended by R.2001 d.271, effective August 6, 2001.
See: 33 N.J.R. 1044(a), 33 N.J.R. 2672(a).

Added (e).

Case Notes

Trial judge vacated all aspects of previous sentence and imposed new ones following violation of probation; no double penalties. *State v. Harvey*, 273 N.J.Super. 572, 642 A.2d 1052 (A.D.1994).

Defendant was not entitled to credit against sentence imposed on new charges for time spent in presentence custody after parole warrant was lodged. *State v. Harvey*, 273 N.J.Super. 572, 642 A.2d 1052 (A.D.1994).

Parolee arrested on new charge was entitled to award of jail credit for time served while awaiting disposition of new charge. *State v. Williams*, 266 N.J.Super. 154, 628 A.2d 837 (L.1993).

Parolee charged with parole violation need not be returned to custody even after probable cause was found. *State v. Williams*, 266 N.J.Super. 154, 628 A.2d 837 (L.1993).

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, 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, 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. Such application shall include:

- i. The amount of bail, if any, set in the case; and
- ii. An evaluation of the likelihood of the parolee posting bail or being released from detention; and
- iii. Appropriate discovery material which will clearly document that the parolee may have committed a new crime or an act of delinquency; and
- iv. The reasons why the parolee poses a danger to public safety.

2. If the application is submitted by a prosecuting authority, such application shall also include:

- i. A concise, comprehensive synopsis of the specific facts, statements or other evidence implicating the parolee in the commission of the alleged crime; and
- ii. An affirmative representation that the case is not subject to any plea agreement which may result in the imposition of a non-custodial term or a custodial term of less than one year.

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, 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) If the revocation process is initiated pursuant to this subsection, the Chairperson or his or her designated representative shall immediately authorize the issuance of a warrant for the arrest of the parolee.

(f) If the revocation process is initiated at the request of a prosecuting authority, a representative of the prosecuting authority shall appear at any preliminary and any revocation hearing in order to present evidence and/or testimony in regard to the parolee's alleged violation of parole conditions. It shall be the responsibility of the prosecuting authority to insure the appearance of any witness(es) deemed necessary for the presentation of the case against the parolee.

(g) If a parolee testifies at any preliminary or any revocation hearing initiated pursuant to this subsection, the parolee shall be informed that, pursuant to N.J.S.A. 30:4-123.60, his or her testimony and the evidence derived

therefrom shall not be used against him or her in a subsequent criminal prosecution or delinquency adjudication.

(h) If the prosecuting authority makes application for the initiation of revocation proceedings pursuant to this section, he or she shall be notified of any subsequent action on the revocation case by a hearing officer, Board panel or Board.

Amended by R.1985 d.213, effective May 6, 1985.

See: 16 N.J.R. 3391(a), 17 N.J.R. 1096(a).

(b)3 added the word "clearly"; (e) added "and/or testimony in regard to".

Amended by R.1993 d.398, effective August 16, 1993.

See: 25 N.J.R. 435(a), 25 N.J.R. 3829(a).

Amended by R.1995 d.109, effective February 21, 1995.

See: 26 N.J.R. 4150(a), 27 N.J.R. 686(b).

Amended by R.1997 d.168, effective April 7, 1997.

See: 28 N.J.R. 3870(a), 29 N.J.R. 1318(a).

In (a), substituted "offense" for "crime; in (b), (b)3, (c) and (d), inserted reference to Commission or to a designated representative of the Commission; and in (g), substituted "delinquency adjudication" for "delinquency prosecution".

Amended by R.2000 d.50, effective February 7, 2000.

See: 31 N.J.R. 3579(a), 32 N.J.R. 472(b).

In (b) and (d), substituted references to the Director of Parole for references to the Chief of the Bureau of Parole throughout.

Amended by R.2002 d.175, effective June 3, 2002.

See: 34 N.J.R. 359(a), 34 N.J.R. 1918(b).

Inserted "or his or her designee" following "Director of Parole" throughout.

10A:71-7.4 Preliminary hearing

When a parolee is arrested on a parole violation warrant, a preliminary hearing shall be conducted by a hearing officer to determine whether probable cause exists to believe that the parolee has seriously or persistently violated conditions of parole and whether revocation of parole is desirable.

10A:71-7.5 Preliminary hearing; scheduling

(a) The preliminary hearing shall be conducted within 14 days of the parolee's return to custody as a parole violator, unless the hearing officer, the parole officer or the parolee requests a postponement of such hearing.