

CHAPTER 71

PAROLE

Authority

N.J.S.A. 30:4-123.48(d) and 30:4-123.51(b).

Source and Effective Date

R.2010 d.274, effective October 27, 2010.
See: 42 N.J.R. 1296(a), 42 N.J.R. 2960(a).

Chapter Expiration Date

In accordance with N.J.S.A. 52:14B-5.1b, Chapter 71, Parole, expires on October 27, 2017. See: 43 N.J.R. 1203(a).

Chapter Historical Note

Chapter 71, Parole, was adopted as R.1980 d.359, effective August 7, 1980. See: 12 N.J.R. 420(b), 12 N.J.R. 538(a).

Pursuant to Executive Order No. 66(1978), Chapter 71, Parole, was readopted as R.1985 d.213, effective April 15, 1985. See: 16 N.J.R. 3391(a), 17 N.J.R. 1096(a).

Pursuant to Executive Order No. 66(1978), Chapter 71, Parole, was readopted as R.1990 d.141, effective February 5, 1990. See: 21 N.J.R. 3411(c), 22 N.J.R. 825(a).

Pursuant to Executive Order No. 66(1978), Chapter 71, Parole, was readopted as R.1995 d.109, effective January 27, 1995. See: 26 N.J.R. 4150(a), 27 N.J.R. 686(b).

Pursuant to Executive Order No. 66(1978), Chapter 71, Parole, was readopted as R.2000 d.50, effective January 7, 2000. See: 31 N.J.R. 3579(a), 32 N.J.R. 472(b).

Chapter 71, Parole, was readopted as R.2005 d.127, effective March 24, 2005. See: 36 N.J.R. 4407(a), 37 N.J.R. 1191(b).

Subchapter 9, Certificate Suspending Certain Employment, Occupational Disabilities or Forfeitures, was adopted as new rules by R.2009 d.32, effective January 20, 2009. See: 40 N.J.R. 5165(a), 41 N.J.R. 618(a).

Pursuant to Executive Order No. 1(2010), the chapter expiration date was extended from March 24, 2010 until the completion of the review of administrative regulations and rules by the Red Tape Review Group, and until such time as the extended regulation or rule was readopted pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. See: 42 N.J.R. 1296(a).

Chapter 71, Parole, was readopted as R.2010 d.274, effective October 27, 2010. See: Source and Effective Date. See, also, section annotations.

Subchapter 2, General Administrative Provisions, was renamed Records; General Administrative Provisions by R.2012 d.033, effective February 6, 2012. See: 43 N.J.R. 2144(b), 44 N.J.R. 270(a).

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SUBCHAPTER 1. BOARD ORGANIZATION

10A:71-1.1 Definitions

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

“Adult inmate” shall mean any person sentenced as an adult to a term of incarceration.

“Board” shall mean the New Jersey State Parole Board.

“Chief Executive Officer” shall mean any administrator, warden, superintendent or keeper of any county correctional facility or State correctional facility.

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

(k) The Board panel may vacate any reduction granted if the inmate fails to maintain acceptable conduct.

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

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

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

Section substantially amended.

Amended by R.1990 d.141, effective March 5, 1990.

See: 21 N.J.R. 3411(c), 22 N.J.R. 825(a).

Corrected internal N.J.A.C. cites at (l).

Case Notes

Alleged denial of due process by parole board's failure to consider application for exceptional progress could proceed; section 1983. *Johnson v. Fauver*, D.N.J.1992, 786 F.Supp. 442, affirmed 970 F.2d 899.

Alleged denial of due process by failure to consider application for exceptional progress; moot. *Johnson v. Fauver*, D.N.J.1992, 786 F.Supp. 442, affirmed 970 F.2d 899.

Parole reduction agreement provision of the Parole Act examined; no due process violation found in discretion accorded the Parole Board; regulation presumptively valid. *Raymond v. N.J. State Parole Bd.*, 221 N.J.Super 381, 534 A.2d 741 (App.Div.1987).

10A:71-3.6 Notice of parole eligibility; adult inmates

(a) Upon the admission of an adult inmate to a State correctional facility, it shall be the responsibility of the chief executive officer of such facility to promptly notify the Board.

(b) Upon such notification and within 90 days of the commencement of the sentence, the Board shall notify the inmate in writing of his or her primary parole eligibility date.

(c) Each inmate shall be given the opportunity to acknowledge in writing the receipt of such notice. Failure by the inmate to acknowledge the receipt of such notice shall be recorded in the Board's files.

(d) The Board shall annually monitor the progress of each adult inmate and provide the inmate and the Department with a written statement of any changes in the inmate's parole eligibility.

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

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

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

(a) Five to seven months in advance of the actual eligibility date, the Board shall promulgate a list of those adult inmates who appear to be eligible for parole consideration.

(b) This list shall be distributed to the chief executive officer of the institution of incarceration and the Chairman of the Board of Trustees for the institution of incarceration.

(c) The receipt of this eligibility list by the chief executive officer of the institution of incarceration shall be notice to initiate the preparation of a pre-parole report pursuant to (e) below.

(d) It shall be the responsibility of the chief executive officer to file a report concerning the inmate with the appropriate Board panel within 60 days of the receipt of the Board's list. In the case of an inmate identified by the Board's staff as being past eligible for parole consideration or an inmate who has an accelerated parole eligibility date pursuant to N.J.A.C. 10A:71-3.18A, the chief executive officer shall file the report on the inmate with the appropriate Board panel within 30 days of receipt of notice that the inmate is past eligible for parole consideration or has an accelerated parole eligibility date. If the report is not filed within the aforementioned 30 or 60 day time periods, the chief executive officer shall state the reasons therefore in writing and provide such statement in the report when the report is filed with the appropriate Board panel.

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

1. The commitment order, including the sentencing court's written reasons for any sentence imposed.
2. The pre-sentence report.
3. A report on the conduct of the inmate during incarceration.
4. A complete report on the inmate's social, physical and mental condition and reports of the inmate's institutional housing, work, education and program participation.
5. Any other information reflecting on the likelihood that the inmate will commit a crime if paroled.
6. An investigation of any outstanding detainers.
7. The inmate's actual maximum date based on current credits.
8. In the case of an inmate serving a specific term or life term, the projected work and minimum custody credit pattern as established by the classification department.
9. An itemized account of the assessment, penalty, lab fee, fine and restitution amounts imposed by the sentencing court and the balance owed by the inmate on the respective monetary obligation.
10. Any history of civil commitment.
11. Any disposition which arose out of any charges suspended pursuant to N.J.S.A. 2C:4-6 including records of the disposition of those charges.
12. Any acquittals by reason of insanity pursuant to N.J.S.A. 2C:4-1.
13. Any psychological reports prepared in connection with any court proceedings.

(f) In addition to the information required pursuant to (e) above and except as otherwise provided for in (h) or (i) below, a psychological or a psychiatric evaluation report shall be prepared by a mental health professional in an inmate's case as directed by the Board.

(g) Upon the recommendation of the Special Classification Review Board pursuant to N.J.S.A. 2C:47-5 and the expiration of any mandatory minimum term, the chief executive officer of the Adult Diagnostic and Treatment Center shall file a report concerning the inmate with the adult Board panel. In addition to the information required pursuant to (e) above, the report shall include:

1. The treatment record of the inmate and the comments, evaluations and recommendations of the inmate's therapist(s);

2. The comments, evaluations and recommendations of treatment staff;

3. The comments, evaluations and recommendations of the chief executive officer;

4. The comments, evaluation and recommendations of the members of the Special Classification Review Board;

5. All information reviewed and considered by the Special Classification Review Board;

6. A statement from the Special Classification Review Board as to the inmate's capability of making an acceptable social adjustment in the community;

7. The name, title and agency affiliation of the members of the Special Classification Review Board participating in the evaluation of the inmate's case for referral to the Board for parole consideration;

8. In the case of an inmate recommended to the Board for parole consideration by three members of the Special Classification Review Board, the comments and concerns of any member of the Special Classification Review Board who dissents in the determination to recommend the inmate's case to the Board for parole consideration.

(h) Pursuant to N.J.S.A. 30:4-123.54(b)1, an in-depth psychological evaluation of the inmate shall be prepared in any case in which the inmate was convicted of a first or second degree crime involving violence and:

1. The inmate has a prior acquittal by reason of insanity pursuant to N.J.S.A. 2C:4-1 or had charges suspended pursuant to N.J.S.A. 2C:4-6; or

2. The inmate has a prior conviction for murder pursuant to N.J.S.A. 2C:11-3, aggravated sexual assault or sexual assault pursuant to N.J.S.A. 2C:14-2, kidnapping pursuant to N.J.S.A. 2C:13-1, endangering the welfare of a child which would constitute a crime of the second degree pursuant to N.J.S.A. 2C:24-4, or stalking which would constitute a crime of the third degree pursuant to N.J.S.A. 2C:12-10; or

3. The inmate has a prior diagnosis of psychosis.

(i) At any time while an inmate is committed to the custody of the Commissioner, the appropriate Board panel or the Board may require, as often as it deems necessary, the inmate to undergo an in-depth pre-parole psychological evaluation conducted by a psychologist.

(j) An inmate may submit to the Board panel or Board any evaluation report prepared in his case by a private psychologist or psychiatrist. The expense for the conducting of such an evaluation shall be the complete responsibility of the inmate. Arrangements for the scheduling of such an evaluation shall be made through the Department and shall be in accordance with Department regulations. If an inmate submits an evaluation report pursuant to this section, the inmate shall be required, upon the request of the Board panel or Board, to produce at his or her expense the examining psychologist or psychiatrist for an interview before the Board panel or Board.

(k) Prior to the parole eligibility date of an adult inmate, an objective risk assessment shall be performed by Board staff or by some other appropriate agent of the State. The risk assessment shall consist of both static and dynamic factors which may assist the Board panel or Board in determining whether the inmate shall be certified for parole and, if paroled, the level of supervision the inmate may require. In addition to the information otherwise gathered for and incorporated in the pre-parole report pursuant to (e) and (f) above, the assessment shall include, but not be limited to, evaluations of the inmate's ability to function independently, the inmate's educational and employment background and the inmate's family and marital history.

(l) It shall be the responsibility of the chief executive officer to produce the institutional classification file at all scheduled case reviews and initial parole, Board panel and Board hearings.

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

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

Section substantially amended.

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.1998 d.391, effective August 3, 1998.

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

In (e), added 11 through 14; rewrote (g); inserted a new (i); recodified former (i) as (j); and added (k) and (l).

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

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

Rewrote (d) and (i); in (k), inserted "or by some other appropriate agent of the State" at the end of the first sentence; substituted "Division of Parole" for "Bureau of Parole" throughout.

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.

Case Notes

Material arising out of parole hearings was not subject to disclosure under right-to-know law. Home News Pub. Co. v. State, 224 N.J.Super. 7, 539 A.2d 736 (A.D.1988).

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

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

Section substantially amended.

Amended by R.1986 d.306, effective August 4, 1986.

See: 18 N.J.R. 929(a), 18 N.J.R. 1610(a).

Deleted text in (c) "upon the recommendation by a hearing officer".

Amended by R.1988 d.336, effective July 18, 1988.

See: 19 N.J.R. 1396(b), 20 N.J.R. 1716(a).

Amended by R.1990 d.141, effective March 5, 1990.

See: 21 N.J.R. 3411(c), 22 N.J.R. 825(a).

Recodified from N.J.A.C. 10A:71:3-22; changed references to N.J.A.C.

10A:71-3.25 Scheduling of quarterly reviews; juvenile inmates

(a) Except as provided herein, each juvenile inmate shall be scheduled for a quarterly review during the third month following the establishment of the tentative parole release date and during each third month thereafter; provided, however, that the juvenile Board panel may direct that a quarterly review be conducted prior to a quarterly review otherwise required pursuant to this section.

1. The Chairperson shall establish a schedule of quarterly reviews to be conducted by a hearing officer or juvenile Board panel member assigned by the Chairperson.

2. The Chairperson, when practicable, shall notify the chief executive officer of the institution of the schedule of such quarterly reviews at least seven days prior to the date of the quarterly review.

3. It shall be the responsibility of the chief executive officer to immediately notify the Chairperson if any juvenile inmate scheduled for a quarterly review is transferred from the institution or is not expected to be available for any reason.

4. It shall be the responsibility of the chief executive officer of the institution to make arrangements to have any juvenile inmate scheduled for a quarterly review brought to the review, unless such juvenile is physically unable to appear or refuses to appear for the quarterly review.

5. It shall be the responsibility of the chief executive officer of the institution or designee to notify the assigned hearing officer, the juvenile Board panel member or the juvenile Board panel, in writing, of the effort expended to produce the juvenile inmate and the reason(s) for the failure of the juvenile inmate to appear at a scheduled quarterly review.

(b) A quarterly review may be conducted by videoconferencing. The notice required pursuant to (a)2 above may include, when appropriate, notice that the scheduled quarterly review will be conducted by videoconferencing.

R.1980 d.488, effective November 6, 1980.

See: 12 N.J.R. 537(a), 12 N.J.R. 724(c).

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

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

Section substantially amended.

Amended by R.1988 d.336, effective July 18, 1988.

See: 19 N.J.R. 1396(b), 20 N.J.R. 1716(b).

Added tentative.

Recodified from N.J.A.C. 10A:7-3.23, effective March 5, 1990.

See: 21 N.J.R. 3411(c), 22 N.J.R. 825(a).

Amended by R.2001 d.271, effective August 6, 2001.

See: 33 N.J.R. 1044(a), 33 N.J.R. 2672(a).

Added (b).

Cross References

Exception, see N.J.A.C. 10A:71-3.32.

10A:71-3.26 Factors considered at quarterly reviews; juvenile inmates

(a) Parole decisions shall be based on the aggregate of all pertinent factors, including material supplied by the juvenile inmate and reports and material which may be submitted by any person or agencies which have knowledge of the juvenile inmate.

(b) The hearing officer, juvenile Board panel member, juvenile Board panel or Board shall consider the following factors and in addition may consider any other factors deemed relevant:

1. Commission of an act of delinquency when incarcerated.
2. Commission of serious institutional disciplinary infractions.
3. Nature and pattern of previous acts of delinquency.
4. Adjustment to previous probation, parole and incarceration.
5. Facts and circumstances of the current act of delinquency.
6. Aggravating and mitigating factors surrounding the act of delinquency.
7. Pattern of less serious institutional disciplinary infractions.

8. Participation in institutional programs which could have led to the improvement of problems diagnosed at admission or during incarceration. This includes, but is not limited to, participation in substance abuse programs, academic or vocational education programs, work assignments and individual or group counseling.

9. Statements by institutional staff, with supporting documentation, that the inmate, if released, is likely to cause injury to persons or substantial injury to property.

10. Documented pattern of relationships with institutional staff or inmates.

11. Documented change in attitude toward self or others.

12. Documentation reflecting personal goals, personal strengths or motivation for law-abiding behavior.

13. Mental and emotional health.

14. Parole plans and the investigation thereof.

15. Status of family relationships at the time of the case review.

16. Availability of community resources or support services for inmates who have a demonstrated need for same.

17. Statements by the inmate reflecting on the likelihood that he or she, if released, will cause injury to persons or substantial injury to property.

18. History of employment and education.

19. Family history.

20. Statement by the court reflecting the reasons for the commitment.

21. Statements or evidence presented by the appropriate prosecutor's office, the Office of the Attorney General, or any other criminal justice agency.

22. Statement or testimony of any victim or the nearest relative(s) of a murder/manslaughter victim.

(c) Any detainers shall be noted by the hearing officer, juvenile Board panel member, juvenile Board panel or Board and shall not be grounds for denial of parole.

R.1980 d.488, eff. November 6, 1980.
See: 12 N.J.R. 537(a), 12 N.J.R. 724(c).
Amended by R.1985 d.213, eff. May 6, 1985.
See: 16 N.J.R. 3391(a), 17 N.J.R. 1096(a).

(b)21 and 22 added.

Recodified from N.J.A.C. 10A:71-3.24, effective March 5, 1990.
See: 21 N.J.R. 3411(c), 22 N.J.R. 825(a).
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)22, inserted "/manslaughter".

10A:71-3.27 Quarterly review procedures; juvenile inmates

(a) Quarterly reviews shall be conducted by a hearing officer, a juvenile Board panel member or the juvenile Board

panel as determined by the Chairperson and shall include a personal interview with the juvenile inmate.

(b) The purpose of the quarterly review shall be to determine whether it appears that the juvenile inmate, when released, will not cause injury to persons or substantial injury to property, to determine whether the tentative parole release date will be reduced pursuant to N.J.A.C. 10A:71-3.24(a), (b) or (c), or to determine whether the tentative parole release date will be increased pursuant to N.J.A.C. 10A:71-3.24(d).

(c) The hearing officer, juvenile Board panel member or juvenile Board panel may consider any relevant and reliable documents or statements.

(d) Prior to the evaluation segment of the quarterly review, a designated Board representative, the hearing officer or the juvenile Board panel member(s) shall discuss with and explain to the juvenile inmate all documents relevant to the juvenile inmate's case, except information classified as confidential pursuant to N.J.A.C. 10A:71-2.2 or the rules and regulations of the Commission.

R.1980 d.488, eff. November 6, 1980.
See: 12 N.J.R. 537(a), 12 N.J.R. 724(c).
Amended by R.1985 d.213, eff. May 6, 1985.
See: 16 N.J.R. 3391(a), 17 N.J.R. 1096(a).

Section substantially amended.

(e) recodified to 3.26.

Amended by R.1988 d.336, effective July 18, 1988.
See: 19 N.J.R. 1396(b), 20 N.J.R. 1716(b).

Deleted text in (b) "juvenile inmate's case . . ." and inserted new "tentative parole release . . .".

Amended by R.1990 d.141, effective March 5, 1990.

See: 21 N.J.R. 3411(c), 22 N.J.R. 825(a).

Recodified from N.J.A.C. 10A:71-3.25; internal N.J.A.C. cites changed.

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

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

In (d), substituted "Commission" for "Department".
Amended by R.2012 d.033, effective February 6, 2012.

See: 43 N.J.R. 2144(b), 44 N.J.R. 270(a).

In (d), deleted a comma following "officer" and updated the N.J.A.C. reference.

10A:71-3.28 Preparation of progress reports; juvenile inmate

(a) Prior to a quarterly or annual review, it shall be the responsibility of the chief executive officer of the institution or designee to prepare and file with the hearing officer or juvenile Board panel a report concerning the juvenile inmate.

(b) The report shall include the following:

1. The commitment order(s), including any written reasons for the commitment;

2. The predisposition report(s);

3. An appraisal of the inmate's institutional housing, work, education and program participation;

4. An investigative report by the assigned parole officer on the inmate's parole plans;

5. An up-to-date report on any outstanding detainer(s);

6. A complete report on the juvenile inmate's social, physical and mental condition, including any psychological or psychiatric reports and any additional reports requested by the juvenile Board panel member(s) or hearing officer;

7. Any additional information pertaining to the likelihood that the juvenile inmate, if released, will cause injury to persons or substantial injury to property;

(c) The reviewing juvenile Board panel member(s) shall submit such progress report and any other documents deemed relevant or necessary with the notification of reduction in the tentative parole release date or certification of parole release to the sentencing court in those cases in which court approval is required. Additional information or documents shall be submitted to the sentencing court upon the request of the sentencing court.

R.1980 d.488, eff. November 6, 1980.

See: 12 N.J.R. 537(a), 12 N.J.R. 724(c).

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

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

Recodified with substantial amendments from N.J.A.C. 10A:71-3.25(e).

Amended by R.1988 d.336, effective July 18, 1988.

See: 19 N.J.R. 1396(b), 20 N.J.R. 1716(b).

Added tentative; deleted text from (a)5 and substituted new.

Recodified from N.J.A.C. 10A:71-3.26, effective March 5, 1990.

See: 21 N.J.R. 3411(c), 22 N.J.R. 825(a).

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)4, substituted "assigned parole officer" for "Bureau of Parole".

10A:71-3.29 Quarterly review notice of decision: juvenile inmates

(a) At the conclusion of the quarterly review conducted by a hearing officer, the hearing officer shall:

1. Recommend to a member of the juvenile Board panel that the juvenile inmate be released on parole; or

2. Defer a recommendation pending receipt of additional information; or

3. Continue the case until the next quarterly review; or

4. Recommend a decrease in the tentative parole release date in accordance with N.J.A.C. 10A:71-3.24(a), (b) or (c); or

5. Recommend an increase in the tentative parole release date in accordance with N.J.A.C. 10A:71-3.24(d); or

6. Refer the case to the juvenile Board panel.

(b) The hearing officer, at the conclusion of the quarterly review, shall immediately advise the juvenile inmate in writing of the determination and submit the written determination to the assigned member(s) of the juvenile Board panel.

(c) If the hearing officer defers a decision, the juvenile inmate and the assigned member(s) of the juvenile Board panel shall be advised in writing of the decision upon being rendered by the hearing officer.

(d) If the hearing officer recommends the juvenile inmate's release on parole, the juvenile inmate shall be advised of any special conditions recommended.

(e) At the conclusion of the quarterly review conducted by a juvenile Board panel member, the juvenile Board panel member shall render a determination(s) as provided in N.J.A.C. 10A:71-3.30(a).

(f) The provisions of N.J.A.C. 10A:71-3.30(b), (c) and (d) shall apply to those cases in which the quarterly review is conducted by a juvenile Board panel member.

R.1980 d.488, eff. November 6, 1980.

See: 12 N.J.R. 537(a), 12 N.J.R. 724(c).

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

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

Amended by R.1986 d.306, effective August 4, 1986.

See: 18 N.J.R. 929(a), 18 N.J.R. 1610(a).

Added (e) and (f).

Amended by R.1988 d.336, effective July 18, 1988.

See: 19 N.J.R. 1396(b), 20 N.J.R. 1716(b).

Added tentative.

Amended by R.1990 d.141, effective March 5, 1990.

See: 21 N.J.R. 3411(c), 22 N.J.R. 825(a).

Recodified from N.J.A.C. 10A:71-3.27; N.J.A.C. cites changed.

10A:71-3.30 Board member review; juvenile inmates

(a) Upon review of the recommendation of the hearing officer, the assigned member of the juvenile Board panel shall render the following determination(s):

1. A certification of;

i. A parole release date;

ii. Appropriate additional pre-release condition(s); and

iii. Appropriate special condition(s) pursuant to subchapter 6 when the parole release date is within 90 days.

2. Defer a decision pending the receipt of relevant information.

3. Certify a reduction in the tentative parole release date pursuant to N.J.A.C. 10A:71-3.24(a), (b) or (c);

4. Certify an increase in the tentative parole release date pursuant to N.J.A.C. 10A:71-3.24(d);

5. Refer the case to the juvenile Board panel for a decision; or

6. Continue the case until the next quarterly review.

(b) A written report shall be filed with the juvenile Board panel within 21 days of the decision and shall consist of the determination of the juvenile Board panel member and the reasons therefor, except that information classified as confidential pursuant to N.J.A.C. 10A:71-2.2 or the rules and regulations of the Commission. A copy of such notice shall be forwarded to the juvenile inmate, the juvenile's parent(s) or guardian(s), the committing court, the prosecutor and the chief executive officer of the institution or designee. The chief executive officer or designee may further distribute the report as deemed appropriate.

iv. Within 21 days of the hearing, the appropriate Board panel shall issue a written decision to the parolee, which shall include the decision of the Board panel and the particular reasons for the decision and the facts relied on, except information classified as confidential pursuant to N.J.A.C. 10A:71-2.2.

2. Nothing in this subsection shall be construed to limit the authority of the Board, the appropriate Board panel or any parole officer to address a violation of a condition of parole pursuant to N.J.S.A. 30:4-123.60 through 30:4-123.65 and N.J.A.C. 10A:71-7.

(o) An inmate placed on medical parole shall be subject to the custody, supervision and conditions as provided in N.J.S.A. 30:4-123.59 and N.J.A.C. 10A:71-6.1(a), 6.2, 6.4(a), (e) and (i), 6.6 and 6.7.

(p) An inmate placed on medical parole shall be subject to sanctions for a violation of a condition of parole as provided in N.J.S.A. 30:4-123.60 through 30:4-123.65 and N.J.A.C. 10A:71-7.

(q) The denial of a request for medical parole or the return of a parolee to confinement pursuant to (n) or (p) above shall not preclude the inmate from being eligible for parole consideration pursuant to N.J.S.A. 30:4-123.51(a).

New Rule, R.1998 d.391, effective August 3, 1998.
See: 30 N.J.R. 1176(a), 30 N.J.R. 2920(a).
Amended by R.2000 d.50, effective February 7, 2000.
See: 31 N.J.R. 3579(a), 32 N.J.R. 472(b).
In (o), changed N.J.A.C. reference.
Amended by R.2002 d.175, effective June 3, 2002.
See: 34 N.J.R. 359(a), 34 N.J.R. 1918(b).
Amended by R.2012 d.033, effective February 6, 2012.
See: 43 N.J.R. 2144(b), 44 N.J.R. 270(a).

In (n)iv, inserted a comma following "parolee", deleted "by the Board" following "confidential", and updated the N.J.A.C. reference.

10A:71-3.54 Rules of supervision for mandatory release cases

(a) Pursuant to N.J.S.A. 2C:43-7.2(a) (No Early Release Act), a court imposing a sentence of incarceration for a crime of the first or second degree enumerated in subsection (d) of N.J.S.A. 2C:43-7.2 shall fix a minimum term of 85 percent of the sentence during which the offender shall not be eligible for parole.

(b) Pursuant to N.J.S.A. 2C:43-7.2(c), in addition to the sentence of incarceration, with a minimum period of parole ineligibility of 85 percent, the court is required to impose a five-year term of parole supervision if the offender is being sentenced for a crime of the first degree, or a three-year term of parole supervision if the offender is being sentenced for a crime of the second degree.

(c) Pursuant to N.J.S.A. 2C:43-7.2(c), the term of parole supervision shall commence upon the completion of the sentence of incarceration imposed by the court unless the offender is serving a sentence of incarceration for another crime at the time the offender completes the sentence of incarceration.

In such case, the term of parole supervision shall commence immediately upon the offender being released from incarceration.

(d) Pursuant to N.J.S.A. 30:4-123.51b(a), an offender who has been sentenced to a term of parole supervision and is on release status in the community shall, during the term of parole supervision, remain on release status in the community, in the legal custody of the Commissioner. The offender shall be supervised by the Division of Parole, as if on parole, and shall be subject to the provisions and conditions established pursuant to (e) below.

(e) Prior to release of an adult inmate at the expiration of the term of incarceration imposed pursuant to N.J.S.A. 2C:43-7.2, the Board panel or Board, as appropriate, shall issue a written certificate which shall be delivered to the adult inmate.

1. The certificate shall include as general conditions of supervision the conditions as specified in N.J.A.C. 10A:71-6.4(a).

2. The certificate shall also include as general conditions of supervision the following conditions:

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

ii. Refrain from any contact, verbal, written or through a third party with a co-defendant involved in the commission of the offense.

3. The certificate shall also include any special conditions of supervision deemed appropriate by the Board panel or the Board.

4. Responsibility for the delivery of the certificate shall rest with the designated representative of the Board.

5. At the time of delivery of the certificate, the conditions of supervision shall be explained to the inmate.

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

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

(h) As authorized by N.J.S.A. 30:4-123.51b(a), a term of parole supervision imposed by a court pursuant to N.J.S.A. 2C:43-7.2 may be revoked and the offender returned to custody in accordance with provisions of N.J.S.A. 30:4-123.59 to 123.65. In such a case, the provisions of N.J.A.C. 10A:71-7 shall be deemed to apply.

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

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

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

3. Whether the offender, if originally sentenced pursuant to N.J.S.A. 2C:47-1 et seq. and eligibility for parole consideration required the recommendation of the Special Classification Review Board, shall be eligible for parole consideration pursuant to the provisions of N.J.A.C. 10A:71-7.19 or 7.19A, as appropriate.

(j) If the Board panel determines pursuant to (i)1 above that the offender shall be required to serve the remainder of the term in custody and shall not be eligible for parole consideration on the remainder of the term, the Board panel shall state in writing to the inmate the reasons therefor.

(k) A term established pursuant to (i) above shall not be reduced by commutation credit for good behavior or credits for diligent application of work and other institutional assignments.

(l) The term established pursuant to (i) above shall not be aggregated with the parole eligibility term derived from a term of imprisonment imposed on the offender for the commission of any other offense.

(m) Upon the enforcement of a warrant issued pursuant to N.J.S.A. 30:4-123.62, the offender shall not be released from confinement without the authorization of the appropriate Board panel.

(n) If an offender sentenced pursuant to N.J.S.A. 2C:43-7.2 is released on parole by a Board panel or the Board prior to the expiration of the sentence of incarceration, the conditions of supervision established pursuant to N.J.A.C. 10A:71-6.4(a) and (i) shall remain in effect, unless modified, during the service of the court imposed term of parole supervision. Further, the conditions of supervision established pursuant to (e)2 above shall be in effect on the date of parole release.

(o) If an offender sentenced pursuant to N.J.S.A. 2C:43-7.2 is also sentenced to a special sentence of community supervision for life or parole supervision for life pursuant to N.J.S.A. 2C:43-6.4 and if the offender is released on parole by a Board panel or the Board prior to the expiration of the sentence of incarceration, the conditions of supervision shall include, in addition to those conditions established pursuant to N.J.A.C. 10A:7-6.4(a) and (i) and (e)2 above, the condi-

tions as specified in N.J.A.C. 10A:71-6.11(b), (c), (e), (f) and (g) or 6.12(d), (e), (g), (h) and (i), as appropriate.

New Rule, R.1998 d.391, effective August 3, 1998.

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

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

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

In (g), (k) and (l), changed N.J.A.C. references.

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

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

Rewrote (a); in (e)4, deleted "the Bureau of Parole or" following "representative of" and "as appropriate" following "Board"; in (f), deleted "Bureau of Parole or" following "representative of the" and "as appropriate," following "Board".

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

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

In (l), inserted "or parole supervision for life" following "community supervision for life" and amended the N.J.A.C. reference.

Amended by R.2007 d.212, effective July 2, 2007.

See: 39 N.J.R. 751(a), 39 N.J.R. 2538(b).

Rewrote (i), added new (j) through (l); and recodified former (j) through (l) as (m) through (o).

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

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

In (o), inserted the first occurrence of "pursuant".

10A:71-3.55 Notice of parole release to prosecutor

(a) The Board, in cases involving the release of an adult inmate on parole, shall provide written notice to the prosecutor of the anticipated parole release of the inmate from incarceration in a county or State penal institution or the Adult Diagnostic and Treatment Center.

(b) If available, the notice shall be provided to the prosecutor 90 days before the inmate's anticipated release; provided, however, the notice shall be provided at least 30 days before release. The notice shall include the person's name, identifying factors, offense history and anticipated future residence.

(c) As used in this section, "prosecutor" means the county prosecutor of the county in which the inmate was convicted unless the matter was prosecuted by the Attorney General, in which case "prosecutor" means the Attorney General.

New Rule, R.2002 d.175, effective June 3, 2002.

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

SUBCHAPTER 4. APPEALS

10A:71-4.1 Appeals by inmates

(a) Any denial of parole by the special county, young adult or adult Board panel shall be appealable to the Board provided one of the following criteria is met:

1. The Board panel failed to consider material facts.

2. In the case of an inmate serving a sentence for an offense committed prior to August 19, 1997, the Board panel failed to document that a preponderance of the evidence indicates a substantial likelihood that the inmate will commit a crime if released on parole.

3. In the case of an inmate serving a sentence for an offense committed on or after August 19, 1997, the Board panel failed to document that a preponderance of the evidence indicates that:

- i. The inmate has failed to cooperate in his or her own rehabilitation; or
- ii. There is a reasonable expectation that the inmate will violate conditions of parole established pursuant to N.J.A.C. 10A:71-6.4(a) if released on parole.

the provisions of N.J.S.A. 30:4-123.59 to 30:4-123.65 and N.J.A.C. 10A:71-7.

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

Deleted the text "and payment of any fine".
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), amended N.J.S.A. references, inserted reference to Witness Security Reform Act, inserted "adult" preceding "parolees", and added provision relating to supervision of juvenile parolees; and added (c).

Amended by R.2002 d.175, effective June 3, 2002.
See: 34 N.J.R. 359(a), 34 N.J.R. 1918(b).

In (a), added "in accordance with the policies and rules of the Board" after "Commission".

Amended by R.2005 d.127, effective April 18, 2005.
See: 36 N.J.R. 4407(a), 37 N.J.R. 1191(b).

Rewrote (a).
Amended by R.2010 d.274, effective December 6, 2010.
See: 42 N.J.R. 1296(a), 42 N.J.R. 2960(a).

In (a), substituted "§§3521" for "§§ 3251".

10A:71-6.2 Supervisory procedures

(a) The Board or the appropriate Board panel may require specific procedures to be followed in the supervision of individual parolees. Notice of such procedures shall be provided in writing to the appropriate supervisory personnel.

(b) It shall be the responsibility of the appropriate supervisory personnel to provide promptly and fully such information as herein required and such information as the Board or its representative may request on individual cases.

10A:71-6.3 Certificate of parole

(a) Prior to release on parole, the Board shall issue a written certificate of parole which shall be delivered to and signed by each inmate.

(b) Such certificate of parole shall include all general and special conditions of parole imposed prior to release.

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

(d) At the time of such delivery, all parole conditions shall be explained to the inmate.

(e) The Board shall provide a translation of the certificate of parole to any inmate whose primary language is other than English who requests such a translation in writing to the Board.

(f) Before being released on parole, each inmate shall be required to agree to abide by the conditions of his or her parole as evidenced by his or her signature affixed to the certificate of parole.

(g) If the inmate refuses to sign the certificate of parole, the parole release date shall be suspended pursuant to N.J.A.C. 10A:71-5.1.

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

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

Deleted text "the Chief of the Bureau of Interstate Services".

Amended by R.1990 d.141, effective March 5, 1990.

See: 21 N.J.R. 3411(c), 22 N.J.R. 825(a).

Deleted requirement in (b) that certificate be signed by Board member or members.

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

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

In (c), inserted reference to a designated representative 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 (c), substituted a reference to the Director of Parole for a reference to the Chief of the Bureau of Parole.

Case Notes

Requirement to make reparations not permitted as a condition of parole; restitution only is allowed by statute; prisoner not entitled to release pending Parole Board's appeal of Superior Court ruling striking down reparations requirement for parole. In re Trantino Parole Application, 177 N.J.Super. 499, 427 A.2d 91 (App.Div.1981), modified and remanded 89 N.J. 347, 446 A.2d 104 (1982).

10A:71-6.4 Conditions of parole

(a) The certificate of parole shall contain the following general conditions of parole:

1. You are required to obey all laws and ordinances.

2. You are to report in person to your District Parole Supervisor or his or her designated representative, or the designated representative of the Commission, immediately after you are released on parole from the institution, unless you have been given other written instructions by a designated representative of the Board or Commission, and you are to report thereafter as instructed by the District Parole Supervisor or his or her designated representative, or the designated representative of the Commission.

3. You are to notify your parole officer immediately after any arrest, immediately after your being served with or receiving a complaint or summons and after accepting any pre-trial release including bail.

4. You are to immediately notify your parole officer 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 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. You are to 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. You are to obtain approval of your parole officer:

i. Prior to any change in your residence.

ii. Before leaving the state of your approved residence.

6. You are not to own or possess any firearm, as defined in N.J.S.A. 2C:39-1f, for any purpose.

7. You are not to own or possess any weapon enumerated in N.J.S.A. 2C:39-1r.

8. You are to refrain from the use, possession or distribution of a controlled dangerous substance, controlled substance analog or imitation controlled dangerous substance as defined in N.J.S.A. 2C:35-2 and N.J.S.A. 2C:35-11.

9. You are required to make payment to the Division of Parole or Commission, as appropriate, of any assessment, fine, penalty, lab fee or restitution imposed by the sentencing court.

10. You are to register with the appropriate law enforcement agency and, upon a change of address, re-register with the appropriate law enforcement agency if you are subject to the provisions of N.J.S.A. 2C:7-2.

11. You are to 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.

12. You are to waive extradition to the State of New Jersey from any jurisdiction in which you are apprehended and detained for violation of this parole status and you are not to contest any effort by any jurisdiction to return you to the State of New Jersey.

13. You are to submit to drug or alcohol testing at any time as directed by the assigned parole officer.

14. You are not to operate a motor vehicle without a valid driver's license.

15. You are to immediately notify your parole officer of any change in your employment status.

16. You are to submit to a search conducted by a parole officer, without a warrant of your person, place of residence, vehicle or other real or personal property within your 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.

17. 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 or parole supervision for life. You shall submit to a polygraph examination as directed by the District Parole Supervisor if you are serving a sentence for an offense enumerated in N.J.S.A. 2C:43-6.4.

(b) In the case of an adult or young adult state inmate subject to the provisions of N.J.S.A. 2C:43-6.4, the certificate

of parole shall contain as general conditions of parole, in addition to those conditions specified in (a) above, the conditions as specified in N.J.A.C. 10A:71-6.11(b), (c), (e), (f) and (g) or 6.12(d), (e), (g), (h) and (i) as appropriate.

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

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

(d) In the case of a county inmate, the performance of public service for the remainder of the term of the sentence shall be a required condition of parole where appropriate. The Chairperson shall be authorized to pursue a contract for services for the supervision by the appropriate county probation department for the performance of public service by county inmates.

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

(f) The Board members certifying parole release may, in the following circumstances, impose as a specific condition of parole that the parolee notify an employer or intended employer of his or her parole status and criminal record:

1. The employment is a "live-in" position, for example, employment and residence are on the property of the employer;

2. The parolee is serving a sentence for the offense of murder, manslaughter, kidnapping, aggravated sexual assault, sexual assault, aggravated criminal sexual contact, robbery first degree, robbery second degree, endangering the welfare of a child by engaging in sexual conduct which would impair or debauch the morals of a child, luring, aggravated assault, arson or an attempt to commit any such offense;

3. The criminal record of the parolee indicates a conflict with the type of employment; or

4. The employment violates the terms of a New Jersey or Federal licensing law or license applicable to the employer.

(g) The assigned parole officer shall confirm that the notification required by the specific condition under (f) above

has been made to the employer and is authorized to make the appropriate notification if the parolee fails to do so.

(h) Nothing in this section shall prohibit the Board members from imposing as a specific condition of parole that the parolee notify an employer or intended employer of his or her parole status and criminal record where good cause exists to impose such a specific condition.

(i) Additional special conditions may be imposed by the District Parole Supervisor, an Assistant District Parole Supervisor, the designated representative of the District Parole Supervisor or the designated representative of the Commission when, in the opinion of the District Parole Supervisor, an Assistant District Parole Supervisor, the designated representative of the District Parole Supervisor, or the designated representative of the Commission, such conditions would reduce the likelihood of recurrence of criminal or delinquent behavior.

1. The parolee shall be given written notice immediately upon the imposition of such an additional special condition.

2. The Board shall be given written notice within seven days upon the imposition of such an additional special condition.

3. An additional special condition imposed shall be deemed to be effective on the date of imposition.

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

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

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

(l) Unless otherwise directed by the Board panel or Board, a specific condition imposed pursuant to (e) above may be modified or vacated by the District Parole Supervisor or

designated representative of the Commission if the circumstances of the parolee's case warrant such action.

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

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

Amended by R.1989 d.145 effective March 20, 1989.

See: 20 N.J.R. 2747(b), 21 N.J.R. 768(a).

At (e), "Assistant District Parole Supervisor" and "designated representative of District Parole Supervisor" added to those who may impose special conditions.

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.1995 d.614, effective December 4, 1995.

See: 27 N.J.R. 3274(b), 27 N.J.R. 4891(a).

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)2, inserted references to designated representative of the Commission and substituted "a designated representative of the Board, Bureau of Parole or Commission" for "the Institutional Parole Officer"; in (a)3, inserted provision relating to a complaint or summons; in (a)9, inserted reference to Commission; in (e), (e)2, (e)3, and (f), inserted references to designated representative of the Commission.

Amended by R.1998 d.144, effective March 16, 1998.

See: 29 N.J.R. 4243(a), 30 N.J.R. 1044(a).

Inserted a new (b); and recodified former (b) through (f) as (c) through (g).

Administrative correction.

See: 30 N.J.R. 1286(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 (a), added 10; and rewrote (e).

Amended by R.1999 d.189, effective June 7, 1999.

See: 31 N.J.R. 710(a), 31 N.J.R. 1490(a).

In (a), added 11 and 12; inserted new (f) through (h); recodified former (f) as (i); inserted (j); and recodified former (g) as (k).

Amended by R.1999 d.252, effective August 2, 1999.

See: 31 N.J.R. 1140(a), 31 N.J.R. 2218(a).

Rewrote (i); and added (l).

Administrative correction.

See: 31 N.J.R. 2755(b).

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

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

In (f)2, inserted references to kidnapping, robbery first degree and robbery second degree.

Amended by R.2001 d.271, effective August 6, 2001.

See: 33 N.J.R. 1044(a), 33 N.J.R. 2672(a).

In (a), added 13 and 14; in (i), added a new 4 and deleted 5 and 6; rewrote (j); and added (m).

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 (a)16, substituted "a" for "the assigned" preceding "parole officer"; added (a)17; deleted former (l); and recodified former (m) as new (l).

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

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

In (a)4 and (a)11, inserted "; or the provisions of a similar Federal or state statute"; in (a)11, inserted a comma following "behavior" and inserted a period at the end; and in (e), inserted "/manslaughter".

Cross References

Board penal actions for failure to report, see N.J.A.C. 10A:71-7.16B.

10A:71-6.5 Restitution

(a) If the Board members certifying parole release establish a special condition requiring full or partial restitution, the

Board shall immediately request that the sentencing court set the amount of such restitution.

(b) The Board shall identify for the sentencing court the elements or factors to be considered in computing the amount of restitution and specify to the court the manner in which the following factors are to be applied.

1. Limitation of restriction to actual loss or damage caused by the crime. Damage may be limited to medical expenses and related costs, funeral expenses, specific personal property losses, other losses if clearly provable, and

lost wages for limited periods of time which do not involve assessments of life expectancy.

2. Restitution is to be made to the persons most directly affected by the parolee's criminal acts.

3. Restitution must be related to the parolee's ability to pay and should not exceed an amount which would jeopardize its rehabilitative purpose.

4. Restitution must be directly related to the losses occurring as a result of the criminal act and to the attitude of the offender.

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

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

New (b) added; old (b) recodified to (c).
Amended by R.1997 d.168, effective April 7, 1997.
See: 28 N.J.R. 3870(a), 29 N.J.R. 1318(a).

In (c), inserted reference to designated representative of the Commission.

10A:71-6.6 Modification of conditions

(a) The appropriate Board panel or the Board may modify or vacate a condition of parole at any time for cause.

(b) A parolee may apply to the appropriate Board panel or the Board at any time for modification or vacation of a condition of parole. A parole officer may apply to the appropriate Board panel or the Board at any time for modification or vacation of a condition of parole if the Board panel or the Board has reserved authority to modify or vacate the conditions of parole.

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

(d) If the application is not submitted at the parolee's request, the parolee shall be notified in writing of the proposed modification or vacation prior to submission of the application to the Board panel.

(e) The parolee may submit written comments regarding the application to the Board panel; however, such comments must be received within 15 days of the application.

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

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

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

Cross reference changed from (d) to (e).
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 (c), (f), and (g), inserted reference to designated representative of the Commission; and in (c), inserted "District Parole" preceding "Supervisor".

Amended by R.2001 d.271, effective August 6, 2001.

See: 33 N.J.R. 1044(a), 33 N.J.R. 2672(a).

Rewrote (a), (b) and (g); in (d), added "or vacation".

10A:71-6.7 Adjustment hearings; State prison parolees

(a) If the parole officer has probable cause to believe that a State prison parolee has violated a condition of parole, such violation not being a basis for revocation of parole pursuant to N.J.A.C. 10A:71-7, the parole officer may require that the parolee appear before a hearing officer for a review of the parolee's adjustment.

(b) Such adjustment hearings shall be conducted by a hearing officer appointed by the Director of Parole.

1. The hearing officer shall be an impartial official and may not be directly involved in supervision of the parolee.

2. Such appointment shall be made by that authority of the Chairperson, and shall in no way limit or otherwise alter the authority of the Chairperson to designate or appoint a hearing officer for adjustment hearings in cases where the Chairperson deems such action appropriate.

(c) At least 14 days prior to the adjustment hearing, the parolee shall be notified in writing as to the time, date, and place of the adjustment hearing; the violation(s) of parole condition(s) alleged; the purpose of the hearing; the possible action which may be taken as a result of the adjustment hearing; and the following rights to which the parolee shall be entitled at the adjustment hearing:

1. The right to appear and speak in his or her own behalf.

2. The right to remain silent.

3. The right to present witnesses to testify in his or her own behalf as to matters relevant to the alleged violation(s) of parole.

4. The right to confront and cross-examine adverse witnesses, unless the hearing officer determines that such witnesses would be subjected to risk or harm.

5. The right to present documentary evidence and any other relevant material or information.

6. The right to waive such hearing.

7. The right to request postponement of such hearing for a period of not more than 14 days.

(d) If the hearing officer determines at the adjustment hearing that the parolee has violated a condition of parole, the hearing officer may order the forfeiture of up to 365 days of commutation time credits granted on the parolee's maximum sentence(s) pursuant to N.J.S.A. 30:4-140.

(e) If the hearing officer orders any such forfeiture of commutation time credits, he or she shall file a notice of such action with the parolee, the Board and the Department within 21 days of the hearing. Such notice shall contain the procedures available to the parolee for appeal of the forfeiture.

(f) Any forfeiture of commutation time credits shall be appealable to the prison Board panel provided one of the following criteria is met:

1. The hearing officer failed to establish a violation of a parole condition.
2. The forfeiture of commutation time credits is unduly harsh or severe.

As amended, R.1985 d.213, effective May 6, 1985.

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

Deleted "or the Chief of the Bureau of Interstate Services"; substituted "Chairperson" for "Board".

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 in the introductory paragraph.

10A:71-6.8 Forfeiture of commutation time credits

(a) If the preliminary hearing officer pursuant to N.J.A.C. 10A:71-7.4 or the adult Board panel pursuant to N.J.A.C. 10A:71-7.12 determines that a State prison parolee has violated a condition of parole but that such violation is not serious or persistent or that revocation of parole is not desirable, the hearing officer or Board panel may order the forfeiture of up to 365 days of commutation time credits.

(b) Any such action by the preliminary hearing officer shall be appealable to the adult Board panel pursuant to the provisions of N.J.A.C. 10A:71-6.7(f).

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

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

Substituted "adult" for "person".

10A:71-6.9 Discharge from parole

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

1. Such parolee has made a satisfactory adjustment while on parole; and
2. Continued supervision is not required;
3. The parolee has made full payment of any assessment, fine, penalty, lab fee or restitution or the parolee has in good faith established a satisfactory payment schedule; or

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

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

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

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

3. In the case of county parole absconders, after a period of two years from the expiration date of the original maximum sentence, provided the parolee has no known arrests.

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

5. In the case of adult parole absconders, after a period of 10 years from the date the parolee became an absconder or after a period of five years from the expiration of the original maximum sentence, provided the parolee has no known arrests.

6. In all other cases, after a period of one year.

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

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

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

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

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

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

(f) The appropriate Board panel may provide a discharge from continued parole supervision:

1. In the case of a parolee who has received a non-custodial term for the commission of an offense and the parolee is to be under community supervision through a probation or parole agency in another jurisdiction; or

2. The parolee has clearly established that continued parole supervision under a community plan in this State or consideration of a formal transfer of supervision to another state would not be conducive to the timely continuation of the parolee's community reintegration.

(g) If discharge is granted, the appropriate Board panel shall issue a discharge certificate on the parolee.

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

As amended, R.1981 d.324, effective September 10, 1981.
See: 13 N.J.R. 440(a), 13 N.J.R. 598(a).

New (b) and (c) added; old (b) and (c) renumbered as (d) and (e).

As amended, R.1985 d.213, effective May 6, 1985.

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

Section substantially amended.

Amended by R.1988 d.336, effective July 18, 1988.

See: 19 N.J.R. 1396(b), 20 N.J.R. 1716(b).

Added (b)3; renumbered old (b)3-5 as 4-6.

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)4, inserted additional N.J.A.C. reference; in (c) and (d), inserted references to designated representative of the Commission; and added (g).

Amended by R.1999 d.252, effective August 2, 1999.

See: 31 N.J.R. 1140(a), 31 N.J.R. 2218(a).

In (a)4, changed N.J.A.C. references.

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

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

Inserted a new (c); and recodified former (c) through (g) as (d) through (h).

Amended by R.2001 d.271, effective August 6, 2001.

See: 33 N.J.R. 1044(a), 33 N.J.R. 2672(a).

Rewrote (e)2.

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

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

(b) If a parolee seeks to transfer formal supervision of his or her case to another jurisdiction, the parolee shall notify his or her parole officer and complete the documents required by statutory or regulatory provisions.

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

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

(e) If the Board panel determines that transfer of the supervision of the parolee's case to an out-of-State jurisdiction is appropriate, the Board panel shall submit the case materials to the Office of Interstate Services or the Commission, as appropriate. The Office of Interstate Services or the Commission, as appropriate, pursuant to the relevant statutory and regulatory provisions, shall forward the parolee's request for transfer of parole supervision to the designated out-of-State jurisdiction for investigation.

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

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

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

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

New Rule, 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 (c), (e), (f), and (h), inserted references to Commission or to a designated representative of the Commission.

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

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

In (e), deleted "Department's" preceding "Office of Interstate Services" in the first sentence.

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

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

In (a), substituted "interstate compact for adult offender supervision (N.J.S.A. 2A:168-26 et seq.)" for "uniform act for out-of-State parolee supervision (N.J.S.A. 2A:168-14 et seq.)", "for" for "on" preceding "juveniles" and "9:23B-1" for "9:23-1" and inserted a comma following "offense".

10A:71-6.11 Community supervision for life

(a) Pursuant to N.J.S.A. 2C:43-6.4(a), any enumerated offense committed prior to January 14, 2004, a court imposing sentence on a person who has been convicted of **aggravated sexual assault**, sexual assault, aggravated criminal sexual contact, kidnapping pursuant to N.J.S.A. 2C:13-1(c)2,

endangering the welfare of a child by engaging in sexual conduct which would impair or debauch the morals of the child pursuant to N.J.S.A. 2C:24-4(a), luring or an attempt to commit any such offense 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 community supervision for life.

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

1. 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 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 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 an Assistant District Parole Supervisor, District Parole Supervisor, or Supervising Parole Officer; 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.

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

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

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

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

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

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

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

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

(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).

Amended by R.2011 d.252, effective November 21, 2011.

See: 43 N.J.R. 121(a), 43 N.J.R. 3087(a).

In (b)21, substituted "an Assistant District Parole Supervisor," for the second occurrence of "the", and inserted "; or Supervising Parole Officer".

Amended by R.2012 d.093, effective May 7, 2012.

See: 44 N.J.R. 30(a), 44 N.J.R. 1530(a).

Added (b)22i through (b)22iv.

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 an Assistant District Parole Supervisor, District Parole Supervisor, or Supervising Parole Officer; 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.

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

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

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

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

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

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

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

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

(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).

Amended by R.2011 d.252, effective November 21, 2011.

See: 43 N.J.R. 121(a), 43 N.J.R. 3087(a).

In (d)23, substituted "an Assistant District Parole Supervisor," for the second occurrence of "the", and inserted "; or Supervising Parole Officer".

Administrative correction.

See: 44 N.J.R. 166(a).

Amended by R.2012 d.093, effective May 7, 2012.

See: 44 N.J.R. 30(a), 44 N.J.R. 1530(a).

Added (d)24i through (d)24iv.

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).