

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

Division of Parole

Authorized By: New Jersey State Parole Board, John D'Amico, Jr., Chairman.

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

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

Proposal Number: PRN 2006-18.

Submit comments by March 4, 2006 to:

Michael Dowling, Executive Director
New Jersey State Parole Board
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The agency proposal follows:

Summary

The Parole Act of 1979 (N.J.S.A. 30:4-123.45 et seq.), which became effective April 21, 1980, created a full-time State Parole Board. The Board determines if, when and under what conditions offenders subject to its jurisdiction may be released on parole or returned to an institution from parole following violations of parole terms or conditions. In 2001, the Bureau of Parole in the Department of Corrections was transferred as the Division of Parole to the Board. Upon the merger of the Division of Parole with the Board, the Department of Corrections rules pertaining to the Division of Parole were administratively transferred to the jurisdiction of the Board and recodified as N.J.A.C. 10A:72. Pursuant to N.J.S.A. 52:14B-5.1 the rules pertaining to the Division of Parole are scheduled to expire June 16, 2006. The Board has, therefore, reviewed the rules and proposes to readopt same with amendment. The Board's rules pertain to general administrative provisions of the Division of Parole; community plan and supervision; use of force while on-duty; use of personal firearms and use of force while off-duty; search and urine monitoring of parolees and inmates; contraband and disposition of contraband; transportation of parolees and inmates in custody; and the volunteers in parole program.

The Board proposes amendments to N.J.A.C. 10A:72-1.3. The proposed amendments to the definition of "Division of Parole" provide for the following: (a) clarification that the Division of Parole is not a separate agency but a unit within the Board; (b) clarification that Division of Parole is responsible for the supervision of adult and juvenile offenders released on parole from an adult correctional facility; (c) deletion of reference to the Adult and Juvenile Compacts for the Supervision of Parolees and Probationers; (d) insertion of reference to the Interstate Compact for Adult Offender Supervision; (e) deletion of the term "persons" and the insertion of the term "offenders"; and (f) clarification that the Division of Parole is responsible for the supervision of juvenile offenders released from an adult correctional facility for the service of a term of post-incarceration.

The notice of proposal is not subject to the calendar requirements of N.J.S.A. 52:14B-3(4) and N.J.A.C. 1:30-3.3(a) because the Board has provided a 60 day comment period and, therefore, pursuant to N.J.A.C. 1:30-3.3(a)5, this notice is exempted from the rulemaking calendar requirement.

Social Impact

The rules proposed for readoption with amendment serve to govern and clarify the use of force by parole officers employed by the Division of Parole while on and off duty; the use of personal firearms; the search and testing of parolees and inmates; the control of contraband and its disposition; and the transportation of parolees and inmates. These rules help contribute to the safety of the parole officers, the affected parolee or inmate and the public at large.

Economic Impact

The State Parole Board does not believe that additional funding is necessary to implement the rules proposed for readoption with amendment as the Division of Parole is a unit within the Board and appropriate funding for the operation of the Division of Parole is presently provided through the established State budget process.

Federal Standards Statement

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

Jobs Impact

The rules proposed for readoption with amendment pertain to the function and duties of parole officers of the Division of Parole of the State Parole Board and volunteers who may assist parole officers in the performance of non-law enforcement functions and duties. It is not anticipated that the existing rules proposed for readoption and the proposed amendment will result in the generation or loss of jobs.

Agriculture Industry Impact

The rules proposed for readoption with amendment will not have any impact on the agriculture industry in New Jersey.

Regulatory Flexibility Statement

The rules proposed for readoption with amendment impose no reporting, recordkeeping, or other compliance requirements upon small businesses, as defined under the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The existing rules with proposed amendment pertain to the duties and functions of parole officers of the Division of Parole of the State Parole Board. A regulatory flexibility analysis is, therefore, not required.

Smart Growth Impact

The rules proposed for readoption with amendment will not have an impact on the achievement of smart growth or the implementation of the State Development and Redevelopment Plan.

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

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

10A:72-1.3 Definition

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

"Division of Parole" means the [agency] **unit** within the [New Jersey] State Parole Board [which is charged with the preparation, release, and] **responsible for the** supervision of [those offenders who are paroled] **adult and juvenile offenders released on parole** by the [New Jersey] State Parole Board **from an adult correctional facility**; the supervision of parolees who are serving a mandatory period of parole supervision pursuant to N.J.S.A. 2C:43-7.2(c); the supervision of parolees from other states who have been accepted under the terms of the [Adult and Juvenile Compacts for the Supervision of Parolees and Probationers] **Interstate Compact for Adult Offender Supervision**; the supervision and/or monitoring of inmates and parolees assigned to the Electronic Monitoring Program; the supervision of [persons] **offenders** sentenced to community supervision for life; the supervision of [persons] **offenders** sentenced to parole supervision for life; **the supervision of juvenile offenders released from an adult correctional facility for the service of a term of post-incarceration**; and the supervision of certain Executive Clemency cases.