

(b)-(k) (No change.)

CHILDREN AND FAMILIES

(a)

DIVISION OF CHILD PROTECTION AND PERMANENCY

Termination of Parental Rights

Proposed Readoption with Amendments: N.J.A.C. 10:133J

Authorized By: Allison Blake, Ph.D., L.S.W., Commissioner,
Department of Children and Families.

Authority: N.J.S.A. 30:4C-1 et seq., specifically 30:4C-15 through 23.

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

Proposal Number: PRN 2015-082.

Submit written comments by September 18, 2015, to:

Debra A. Hayes
Office of Policy and Regulatory Development
Division of Child Protection and Permanency
PO Box 717
Trenton, NJ 08625
or E-mail: rules@dcf.state.nj.us

The agency proposal follows:

Summary

As the Department of Children and Families (Department) has provided a 60-day comment period on this notice of proposal, this notice is exempted from the rulemaking calendar requirement pursuant to N.J.A.C. 1:30-3.3(a)5.

Pursuant to Executive Order No. 66 (1978), N.J.A.C. 10:133J will expire on June 17, 2015. In accordance with N.J.S.A. 52:14B-5.1.c(2), this chapter expiration date is extended 180 days to December 14, 2015. The Division has reviewed these rules and has determined that they continue to be necessary, proper, and reasonable for the purpose for which they were originally promulgated, as required by Executive Order No. 66 (1978).

The Division of Child Protection and Permanency (Division) proposes the readoption of and amendment to the rules governing the Division's procedures and requirements regarding termination of parental rights.

N.J.A.C. 10:133J-1.1 states the purpose of the rules.

N.J.A.C. 10:133J-1.2 states the scope of the rules.

N.J.A.C. 10:133J-1.3 contains the definitions of terms used throughout the chapter.

N.J.A.C. 10:133J-2.1 describes requirements for involuntary termination of parental rights.

N.J.A.C. 10:133J-2.2 provides the exceptions to termination of parental rights criteria.

N.J.A.C. 10:133J-2.3 provides the factors to consider when deciding to file for termination of parental rights.

N.J.A.C. 10:133J-3.1 states the Division's responsibilities.

N.J.A.C. 10:133J-3.2 states the additional procedures related to the surrender of parental rights and amendments are proposed to add citations to the new laws and procedures pertaining to the Division's Adoption Registry and the document of contact preference which may be submitted to the State Registrar of Vital Statistics pursuant to N.J.S.A. 26:8-40.34.

N.J.A.C. 10:133J-3.3 states that the Division recognizes surrenders executed in other states and countries.

Social Impact

The Division believes the social impact of the rules proposed for readoption with amendments on the applicants and clients of the Division is positive. This rule is helpful in that it provides clear language as to the process and procedures of termination of parental rights.

On or about January, 2015, the Division's caseload included a total of 51,869 children. Of this number, 7,301 children were in out-of-home placement. During the month of January, 2015, there were 1,073 children legally free for adoption with 21 adoptions finalized by the end of the month. It is on behalf of the children in substitute care moving toward adoption that the Division is proposing to readopt these rules with amendments.

Each of these children, his or her parents, the child's out-of-home placement provider, and selected adoptive parents, may be affected by the readoption of these rules, depending upon the individual circumstances of each case. These rules allow those individuals to know the Division's termination of parental rights requirements and the exceptions to those requirements.

Economic Impact

A parent is liable for the full costs of maintenance of the child incurred by the Division in accordance with N.J.S.A. 30:4C-29.1. The support obligations of the parent are not altered by the rules proposed for readoption with amendments except that they transfer to the adoptive parent following the adoption of the child. A parent who contests an involuntary termination of parental rights action by the Division will have an attorney appointed by the court, if the parent is unable to afford his or her own attorney.

The Department of Children and Families fiscal budget 2015 was \$1,687,262,000. Of this amount, \$134,511,000 was dedicated to adoption. The Division does not expect a significant change in expenses from the rules proposed for readoption with amendments. There are no new requirements on Division operations that would require additional capital improvements or expenditures for staff or equipment on the part of the Division or any individual. Collateral costs, such as fees for legal counsel through the Office of the Attorney General and fees for professional evaluations and reports, are expected to remain unchanged.

Title IV-E of the Social Security Act is the source of Federal funding for child welfare services. The Division of Child Protection and Permanency received \$80,331,998 in Title IV-E funding for fiscal year 2015.

Federal Standards Statement

N.J.A.C. 10:133J contains subject matter governed by Federal law, specifically 42 U.S.C. § 675(5)(E), which sets forth the requirements, and the exceptions to those requirements, for states to file to terminate the parental rights of a child's parents. N.J.A.C. 10:133J requirements provide for the Division to meet, and not exceed the requirements contained in Federal law.

The rules proposed for readoption with amendments support and do not exceed Federal standards or requirements, and a Federal standards analysis is not required for this rulemaking.

Jobs Impact

The Division does not expect that the rules proposed for readoption with amendments will result in the generation or loss of any jobs.

Agriculture Industry Impact

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

Regulatory Flexibility Statement

Neither the Division, its applicants, clients, persons referred for services, nor persons making referrals to the Division are considered a small business under the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The rules proposed for readoption with amendments do not impose recordkeeping, reporting, or compliance requirements on small businesses. The rules state the procedures under which the Division considers terminating parental rights. Therefore, a regulatory flexibility analysis is not required.

Housing Affordability Impact Analysis

The rules proposed for readoption with amendments will have no impact on affordable housing in New Jersey and there is an extreme unlikelihood that the rules would evoke a change in the average cost associated with housing, as these rules establish the Division's procedures and requirements regarding termination of parental rights.

Smart Growth Development Impact Analysis

The rules proposed for readoption with amendments will have no impact on smart growth and there is an extreme unlikelihood that the rules would evoke a change in housing production in Planning Areas 1 or 2, or within designated centers, under the State Development and Redevelopment Plan in New Jersey, because the rules pertain to the Division of Child Protection and Permanency's procedures and requirements for termination of parental rights.

Full text of the rules proposed for readoption may be found in the New Jersey Administrative Code at N.J.A.C. 10:133J.

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

SUBCHAPTER 3. SURRENDER OF PARENTAL RIGHTS

10:133J-3.2 Additional procedures

(a)-(c) (No change.)

(d) The Division representative shall advise the parent of the Division's Adoption Registry, **the document of contact preference which may be submitted to the State Registrar of Vital Statistics pursuant to N.J.S.A. 26:8-40.34**, and of any laws or procedures regarding the confidentiality of records related to surrender of parental rights or adoption, **including, but not limited to, N.J.S.A. 9:3-52 and 26:8-40.1**.

CORRECTIONS**(a)****THE COMMISSIONER****Administration, Organization, and Management****Proposed Readoption with Amendments: N.J.A.C. 10A:1**

Authorized By: Gary M. Lanigan, Commissioner, Department of Corrections.

Authority: N.J.S.A. 30:1B-6, 30:1B-10, 30:4-123.47.c, and 52:27EE-26, the Americans with Disabilities Act, 42 U.S.C. §§ 12101 et seq., and the Federal Prison Rape Elimination Act of 2003 (PREA), 42 U.S.C. §§ 15601 et seq.

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

Proposal Number: PRN 2015-080.

Submit written comments by September 18, 2015, to:

Kathleen Cullen
Administrative Rules Unit
Office of the Commissioner
New Jersey Department of Corrections
PO Box 863
Trenton, NJ 08625-0863
or via e-mail at:
ARU@doc.state.nj.us

The agency proposal follows:

Summary

Pursuant to Executive Order No. 66 (1978) and N.J.S.A. 52:14B-5.1, N.J.A.C. 10A:1, Administration, Organization, and Management, expires on June 17, 2015, with the exception of Subchapter 3, Disability Discrimination Grievance Procedure, which is exempt from N.J.S.A. 52:14B-5.1 under 28 CFR Part 35. Pursuant to N.J.S.A. 52:14B-5.1.c(2), since the Department of Corrections ("Department" or "NJDOC") submitted this notice of proposal to the Office of Administrative Law prior to that date, the chapter expiration date is extended 180 days to December 14, 2015. The Department has reviewed these rules and, with the exception of the amendments proposed herein, has determined them to be necessary, reasonable, and proper for the purpose for which they

were originally promulgated. The rules are therefore proposed for readoption at this time.

Subchapter 1 sets forth rules for the operation, procedures, and rulemaking activity of the Department of Corrections.

Subchapter 2 sets forth general provisions including definitions, rulemaking procedures, and provisions related to rule exemptions.

Subchapter 3 sets forth the Disability discrimination grievance procedure.

Subchapter 4 sets forth the Inmate Remedy System.

Subchapter 10 sets forth provisions related to general research and experimentation.

Subchapter 11 sets forth rules for the personal property of inmates.

Several amendments are proposed throughout the chapter to reorganize rule provisions, correct minor errors in grammar, improve sentence structure, for purposes of clarification, to replace certain terms with more appropriate or accurate words, to reflect current Departmental policy, practice, and procedure, and/or to set forth current titles and unit names, for clarity and ease of use. Amendments are proposed to replace the existing Inmate Remedy System form names and numbers with more user friendly names and numbers in Subchapter 4.

An amendment is proposed to expand the definition of "electronic communications device" at N.J.A.C. 10A:1-2.2 to also include all equipment and peripheral devices associated with electronic communications devices as a point of clarification. Electronic communications devices are prohibited in correctional facilities therefore an inmate should not have in their possession peripherals and/or equipment such as power cords, chargers, etc.

The Department's Inmate Remedy System is a tool for inmates to communicate concerns and request information from correctional facility staff. Most of the forms associated with this system are proposed to be enhanced to make them more user friendly with more readily defined purposes therefore amendments to the form names and numbers are proposed at N.J.A.C. 10A:1-2.2, 4.1(a), 4.2, 4.3(a), and (b), 4.4(b) through (k), 4.5 heading and subsections (a) through (e), 4.6(a) and (b), 4.7(a)2, 4.8(a)1, 4 through 7, and 9, and 4.8(b)2. The current form, "IRSF-101- Inmate Remedy System Form" has a separate section for inquiries (known as "Routine Inmate Request") and a separate section for grievances (known as "Interview Request") but inmates often used the incorrect section resulting in forms being rejected and delays in getting the information or results sought by the inmate. The changes are intended to assist inmates in using the correct form and getting a quicker reply from facility staff. The amendments include the following:

- The information appearing on "IRSF-101- Inmate Remedy System Form" is proposed to be divided among two forms. The section currently known as "Routine Inmate Request" is proposed as "IRSF-100 - Inmate Inquiry Form" and the section currently known as "Interview Request" is proposed as "IRSF-101 - Inmate Grievance Form," so that the name of the form more directly relates to the nature of the communications between inmate and staff.
- A name change is proposed to "IRSF-103 - Corrective Action Form" to "IRSF-103 - Staff Redirection Form" to project a more positive approach.

In an effort to enhance related communications and response times the Department proposed to modify the response intervals on the Staff Response Form from within 30 days to within 15 at N.J.A.C. 10A:1-4.4(i) when the "Inmate Inquiry Form" is submitted and when the "Inmate Grievance Form" is submitted a response can be expected within 30 calendar days. In addition to the proposed amendments to the form names and numbers, an amendment is proposed that enables inmates to submit the Inmate Grievance Form if the Inmate Inquiry Form is not responded to within 15 calendar days at proposed new N.J.A.C. 10A:1-4.4(j).

New text is proposed at N.J.A.C. 10A:1-4.5(d) to summarize the purpose of the Inmate Inquiry Form and Inmate Grievance Form noting the Inmate Inquiry Form is used to obtain routine information while the Inmate Grievance Form is to be used for grievances or complaints, as indicated by the form titles. The subsection is also proposed for amendment to include the following text that formerly appeared on the Inmate Remedy System Form, regarding the fact that the Inmate Remedy