

**CHILDREN AND FAMILIES**

**DIVISION OF CHILD PROTECTION AND PERMANENCY**

**Court Actions and Procedures**

**Proposed Readoption with Amendments: N.J.A.C. 10:132**

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

Authority: N.J.S.A. 30:4C-4(h) and 30:4C-4.1 and 4.2.

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

Proposal Number: PRN 2014-033.

Submit written comments by May 16, 2014, to:

Pamela Wentworth

Office of Policy and Regulatory Development

Department of Children and Families

PO Box 717

Trenton, New Jersey 08625

The agency proposal follows:

**Summary**

Pursuant to N.J.S.A. 52:14B-5.1.b, N.J.A.C. 10:132 is scheduled to expire February 1, 2014. Due to the timely filing of this notice, the expiration date of this chapter is extended 180 days to July 31, 2014, pursuant to N.J.S.A. 52:14B-5.1.c(2). The Department of Children and

Families (Department) has reviewed these rules and determined them to be necessary, reasonable, and proper for the purpose for which they were originally promulgated, as required by Executive Order No. 66 (1978).

N.J.A.C. 10:132 effectuates N.J.S.A. 30:4C-4.1 and 4.2, which require that any court actions or proceedings commenced or defended by the Division of Child Protection and Permanency (Division), respectively, have the consent and approval of the Commissioner.

The Commissioner grants his or her consent and approval to the Division by rule, to commence and/or defend court actions or proceedings in agreement with the New Jersey Attorney General, the Division's official legal counsel.

This chapter was initially adopted in 1981 to accommodate legislative changes allowing the Commissioner to transfer his or her general authority to commence or maintain court actions to the Division. The rules have subsequently been readopted without significant amendment or comment in 1986, 1991, 1996, 2001, and 2007.

Pursuant to the recently enacted amendment to N.J.S.A. 9:3A-9, the State has changed the name of the Division of Youth and Family Services to the Division of Child Protection and Permanency. Therefore, the Department proposes to amend references to the Division of Youth and Family Services in N.J.A.C. 10:132-1.1 and 1.2 to reflect the new name of the Division.

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

### **Social Impact**

The effect of the rules proposed for readoption with amendments is to continue to allow the Division's court action to be filed expeditiously by the Deputy Attorneys General who

represent the Division in court matters. The types of court actions filed on behalf of the Division are based on N.J.S.A. 9:6-1 et seq. and 30:4C-1 et seq. They involve either the protection of abused children, the termination of parental rights for the purpose of adoption, or filing for kinship legal guardianship. Quick filing with the court is vital in child abuse cases in order to protect the child and is required by law in some situations. The rules proposed for readoption with amendments assist in the prompt filing of court actions throughout the State. The only impact these rules have on the Division's clients (parents and children) is that the Division's court actions are filed more quickly, rather than less quickly. That allows the client faster access to the court and faster resolution of the issue.

### **Economic Impact**

The rules proposed for readoption with amendments have no economic impact on the Division, the Attorney General's office, the clients, or the courts.

### **Federal Standards Statement**

The rules proposed for readoption with amendments are not subject to any Federal standards or requirements. Therefore, a Federal standards analysis is not required for this rulemaking.

### **Jobs Impact**

The Division does not expect that any jobs will either be generated or lost as a consequence of continuing the rules proposed for readoption with amendments.

### **Agriculture Industry Impact**

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

### **Regulatory Flexibility Statement**

The rules proposed for readoption with amendments do not impose any reporting, recordkeeping, or other compliance requirements on small businesses, as defined by N.J.S.A. 52:14B-16 et seq. Neither the Department of Children and Families, the Division, the Attorney General's Office, nor the courts are considered a small business. The rules proposed for readoption with amendments grants the Commissioner's consent and approval by rule to commence and defend court actions and proceedings based on N.J.S.A. 9:6-1 et seq. and 30:4C-1 et seq. to the Division.

### **Housing Affordability Impact Analysis**

The rules proposed for readoption with amendments will not have any impact on affordable housing in New Jersey and there is an extreme unlikelihood that the rules proposed for readoption with amendments would evoke a change in the average costs associated with housing because the rules pertain to the Commissioner's consent and approval by rule for the Division's filing and defense of court actions in his or her name.

### **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 Commissioner's consent and approval by rule to the Division's filing and defense of court actions in his or her name..

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

## CHAPTER 132

### COURT ACTIONS AND PROCEDURES

#### SUBCHAPTER 1. GENERAL PROVISIONS

##### 10:132-1.1 Scope; applicability and purpose

This [rule] **chapter** implements N.J.S.A. 30:4C-4.1 and 4.2 and provides the consent and approval of the Commissioner of the Department of Children and Families authorizing the Division of [Youth and Family Services] **Child Protection and Permanency** to commence or maintain actions in court.

##### 10:132-1.2 Court actions by the Division

The Commissioner of the Department of Children and Families consents to the commencement and maintenance of all actions which the Division of [Youth and Family Services] **Child Protection and Permanency** is authorized by law to commence or maintain,

including, but not limited to, all actions brought pursuant to N.J.S.A. 30:4C-1 et seq. and 9:6-1 et seq.