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RULE PROPOSALS

**LAW AND PUBLIC SAFETY
JUVENILE JUSTICE COMMISSION**

41 N.J.R. 2771(a)

Proposed Readoption with Amendments: N.J.A.C. 13:96

Juvenile Parole and Transitional Services

Authorized By: Executive Board of the Juvenile Justice Commission, by the Honorable Anne Milgram, Attorney General and Chair, Shavar Jeffries, Attorney General's Designee.

Authority: N.J.S.A. 52:17B-170e(14) and (19) to (22), 52:17B-174, 2C:39-6a(9), 47:1A-1, 2A:4A-44d(5), 2A:4A-60, 52:17B-171, 52:17B-175a and 52:17B-176a(10).

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

Proposal Number: PRN 2009-217.

Submit written comments by September 18, 2009 to:

John Wolff, Administrative Practice Officer
New Jersey Juvenile Justice Commission
1001 Spruce Street - Suite 202
Trenton, New Jersey 08638

The agency proposal follows:

Summary

N.J.A.C. 13:96 was originally enacted effective August 7, 2000 and was then titled Aftercare and Parole Services. Prior to its expiration, scheduled to have occurred on August 7, 2005, but extended to February 3, 2006 pursuant to N.J.S.A. 52:14B-5.1c by the filing of a notice of readoption

with amendments, N.J.A.C. 13:96 was readopted and promulgated in its current form, effective January 4, 2006. These rules are scheduled to expire on July 2, 2011 pursuant to N.J.S.A. 52:14B-5.1c. The Juvenile Justice Commission (Commission) has decided to readopt the rules now as part of an on-going plan to spread out the expiration dates of the various chapters in Title 13 of the Administrative Code that are dedicated to Commission rules.

As explained below, the Commission is proposing two minor substantive amendments to N.J.A.C. 13:96-3.6, changing the form used to report a use of force or related event and clarifying language describing what must be included on the form.

The Commission has reviewed the rules at N.J.A.C. 13:96 and has determined that they continue to be necessary, reasonable and proper for the purpose for which they were originally promulgated.

A description of the subchapters as contained in N.J.A.C. 13:96 are summarized as follows.

Subchapter 1 contains general provisions covering purpose, scope, definitions, oath of office form and confidentiality of information.

Subchapter 2 contains rules concerning a residence plan and supervision, requiring each juvenile parolee under supervision of the Commission have a residence plan approved by the New Jersey State Parole Board, establishes requirements for such plans and sets out general requirements for the supervision of juvenile parolees.

[page=2772] Subchapter 3 contains rules governing the use of force issues, both for on-duty juvenile parole officers and for off-duty juvenile parole officers. The Commission is proposing two minor substantive amendments to this subchapter. First, in order to better report operational data in conformance with prevailing performance based standards, the Commission has prepared a comprehensive reporting form, the "JJ-001, Incident Report," to replace a number of previously distinct special reports, operations reports and use of force forms used by the Commission. One of the forms proposed to be replaced is the "P301 Use of Force Report Form," identified in N.J.A.C.

13:96-3.6(a) and (b), and language making the change to the JJ-001 form is proposed for those provisions. A second related change is proposed for the text of N.J.A.C. 13:96-3.6(b). Under that subsection, the required form must "contain" the information enumerated in paragraphs (b)1 through 7. For both syntax and clarity, the word "contain" has been changed to "include."

Subchapter 4, addresses firearms issues for both on-duty and off-duty juvenile parole officers.

Subchapter 5 is reserved.

Subchapter 6 contains rules on search and urine monitoring of juvenile parolees.

Subchapter 7 contains rules on contraband and disposition of contraband.

Subchapter 8 contains rules for the transportation of juvenile parolees and juveniles.

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

Social Impact

The rules at N.J.A.C. 13:96 have a positive social impact. They take into account that incarcerated juveniles are not merely underage adult inmates, but rather are troubled children with distinct educational, vocational and social needs. An effective juvenile parole system must devote considerable time to working with juveniles to address their educational, social service and job needs.

The rules at N.J.A.C. 13:96 provide for such a program.

Incorporating standards set out in the Attorney General's Use of Force Policy, only force that is objectively reasonable and necessary is permitted and the utmost restraint is required. Specific additional restrictions are provided in consideration of the juvenile population. For example, deadly force may not be used to thwart an escape and juvenile parole officers may not undertake invasive searches, such as strip and body cavity searches. Non-invasive searches of juveniles are permit-

ted only for cause, but non-emergency searches of a juvenile parolee's residence or a motor vehicle owned or operated by a juvenile parolee need supervisor approval.

By balancing legitimate security and law enforcement concerns with restraint necessary and appropriate to a juvenile population, the proposed amended rules have a positive social impact.

Economic Impact

The proposed re adoption of N.J.A.C. 13:96 with amendments will not result in any economic impact because additional funding is not necessary to implement these rules. The cost of meeting and maintaining the requirements established by these rules will be met by the Commission through the budgetary process with monies allocated by the State.

Federal Standards Statement

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

Jobs Impact

The New Jersey Juvenile Justice Commission does not anticipate that the rules proposed for re adoption with amendments will result in the generation or loss of jobs.

Agriculture Industry Impact

The rules proposed for re adoption with amendments will have no impact on the agriculture industry in New Jersey.

Regulatory Flexibility Statement

The rules proposed for readoption with amendments do not impose reporting, recordkeeping or other compliance requirements on small businesses, as defined under the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. Therefore, a regulatory flexibility analysis is not required. The rules impact juveniles incarcerated in secure facilities of, and employees of, the New Jersey Juvenile Justice Commission and have no effect on small businesses.

Smart Growth Impact

The Juvenile Justice Commission does not anticipate that the rules proposed for readoption and the proposed amendments will have any impact on the achievement of smart growth or the implementation of the State Development and Redevelopment Plan.

Housing Affordability Impact

The rules proposed for readoption with amendments will have an insignificant impact on affordable housing in New Jersey and there is an extreme unlikelihood that the rules would evoke a change in the average costs associated with housing because the rules concern only juveniles under the jurisdiction of the Commission's Office of Juvenile Parole and Transitional Services.

Smart Growth Development Impact

The rules proposed for readoption with amendments will not have an 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 concern only juveniles under the jurisdiction of the Commission's Office of Juvenile Parole and Transitional Services.

Full text of the rules proposed for readoption may be found in the New Jersey Administrative Code at N.J.A.C. 13:96.

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

SUBCHAPTER 3. USE OF FORCE

13:96-3.6 Reports

(a) A juvenile parole officer shall immediately contact the Director of Juvenile Parole and Transitional Services or designee and shall complete a [P301 Use of Force] **JJ-001 Form, Incident Report** when he or she participated in, or witnessed, any incident in which:

1.-4. (No change.)

(b) The [P301 Use of Force] **JJ-001 Form, Incident Report** shall [contain] **include** the following information:

1.-7. (No change.)

(c) (No change.)