

NEW JERSEY STATE PAROLE BOARD

REFERENCE GUIDE

- A. COMMUNITY SUPERVISION FOR LIFE
- B. PAROLE SUPERVISION FOR LIFE
- C. "NO EARLY RELEASE ACT"
- D. SEX OFFENDER ACT

May 30, 2018

A. Community Supervision for Life

(N.J.S.A. 2C:43-6.4, effective October 31, 1994)

1. CSL is a mandatory component of every sentence imposed on a defendant convicted of the following enumerated offenses:

Aggravated Criminal Sexual Contact, 2C:14-3(a)

Aggravated Sexual Assault, 2C:14-2(a)

Endangering Welfare of a Child, 2C:24-4(a) – limited to engaging in sexual conduct which would impair or debauch the morals of the child

Kidnapping, 2C:13-1(c)2 – if the victim is less than 16 years of age and if during the kidnapping:

(a) a crime under 2C:14-2 or 2C:14-3(a) is committed against the victim;

(b) a crime under 2C:24-4(b) is committed against the victim; or

(c) the actor sells or delivers the victim to another person for pecuniary gain other than in circumstances which lead to the return of the victim to a parent, guardian or other person responsible for the general supervision of the victim.

Luring/Enticing, 2C:13-6

Sexual Assault, 2C:14-2(b), (c)

Attempt to Commit an enumerated offense

2. The special sentence of CSL is in addition to any sentence authorized by the Code of Criminal Justice and commences upon the completion of the sentence imposed pursuant to other applicable provisions of the Code of Criminal Justice.
3. Persons serving such a special sentence shall be supervised as if on parole and “subject to conditions appropriate to protect the public and foster rehabilitation.” N.J.S.A. 2C:43-6.4(b).
4. Upon petition by a person on CSL, a court shall grant a release from CSL upon proof that the defendant has not committed a crime for 15 years since the last conviction or release from incarceration, whichever is later, and is not likely to pose a threat to the safety of others. N.J.S.A. 2C:43-6.4(c).

5. A violation of a condition of CSL without good cause is a **fourth** degree crime. [State v. Hester, 233 N.J. 381 \(2018\).](#)
6. Pursuant to [N.J.S.A. 2C:43-6.4\(e\)](#), a person who commits any of the following enumerated offenses while on CSL shall be sentenced to an extended term of imprisonment as set forth in [N.J.S.A. 2C:43-7](#) provided that the ground therefore has been established at a hearing after the conviction of the defendant and on written notice to the defendant of the ground proposed:

Aggravated Assault, 2C:12-1(b)

Burglary, 2C:18-2 (second degree only)

Criminal Sexual Contact, 2C:14-3

Endangering Welfare of a Child, 2C:24-4

Kidnapping, 2C:13-1

Luring/Enticing, 2C:13-6

Manslaughter, 2C:11-4

Murder, 2C:11-3

Possession of Weapon for Unlawful Purpose, 2C:39-4(a) – possession of any firearm with a purpose to use it unlawfully against the person or property of another

Sexual Assault, 2C:14-2

7. The rules and regulations of the State Parole Board pertaining to CSL are codified at [N.J.A.C. 10A:71-6.11](#).

B. Parole Supervision for Life

[\(N.J.S.A. 2C:43-6.4, effective January 14, 2004\)](#)

1. PSL is a mandatory component of every sentence imposed on a defendant convicted of the following enumerated offenses:

Aggravated Criminal Sexual Contact, 2C:14-3(a)

Aggravated Sexual Assault, 2C:14-2(a)

Endangering Welfare of a Child, 2C:24-4(a) – limited to engaging in sexual conduct which would impair or debauch the morals of a child (prior to August 14, 2013)

Endangering Welfare of a Child, 2C:24-4(a)1 – engaging in sexual conduct which would impair or debauch the morals of the child (effective August 14, 2013)

Endangering Welfare of a Child, 2C:24-4(b)3 – facilitating the creation of child pornography by causing or permitting a child to engage in a prohibited sexual act

Endangering Welfare of a Child, 2C:24-4(b)5(b)i – knowingly possesses, knowingly views or knowingly has under control, through any means, including the Internet, 100,000 or more items depicting the sexual exploitation or abuse of a child (effective February 1, 2018)

Endangering Welfare of a Child, 2C:24-4(b)5(b)ii – knowingly possesses, knowingly views or knowingly has under control, through any means, including the Internet, at least 1,000 but less than 100,000 items depicting the sexual exploitation or abuse of a child (effective February 1, 2018)

Kidnapping, 2C:13-1(c)2 – if the victim is less than 16 years of age and if during the kidnapping:

- (a) a crime under 2C:14-2 or 2C:14-3(a) is committed against the victim;
- (b) a crime under 2C:24-4(b) is committed against the victim; or
- (c) the actor sells or delivers the victim to another person for pecuniary gain other than in circumstances which lead to the return of the victim to a parent, guardian or other person responsible for the general supervision of the victim.

Luring/Enticing, 2C:13-6

Sexual Assault, 2C:14-2(b), (c)

Attempt to Commit an enumerated offense

2. Effective August 14, 2013 a court imposing sentence on a person who has been convicted of Endangering Welfare of a Child N.J.S.A. 2C:24-4(b)4 or (5) (see #3 below), or an attempt to commit either of these offenses shall include, upon motion of the prosecutor, a special sentence of PSL in addition to any sentence authorized by Title 2C of the New Jersey Statutes, unless the court finds on the record that the special sentence is not needed to protect the community or deter the defendant from future criminal activity.

3. Effective February 1, 2018, N.J.S.A. 2C:24-4(b)5(b) is recodified as amended as N.J.S.A. 2C:24-4(b)5(b)iii (less than 1,000 items depicting the sexual exploitation or abuse of a child). Effective February 1, 2018, a court imposing sentence on a person who has been convicted of Endangering Welfare of a Child, N.J.S.A. 2C:24-4(b)5(b)iii, or an attempt to commit this offense, shall include, upon motion of the prosecutor, a special sentence of PSL in addition to any sentence authorized by Title 2C of the New Jersey Statutes, unless the court finds on the record that the special sentence is not needed to protect the community or deter the defendant from future criminal activity.

Note: N.J.S.A. 2C:24-4(b)5 consists of subparagraph (a) and subparagraph (b). As amended effective February 1, 2018, N.J.S.A. 2C:43-6.4 includes reference to N.J.S.A. 2C:24-4(b)5(b)i and ii (see #1 above) and N.J.S.A. 2C:24-4(b)5(b)iii. N.J.S.A. 2C:24-4(b)5(a) remains subject to the imposition of a special sentence of PSL upon motion of the prosecutor (see #2 above).

Note: Effective February 1, 2018, N.J.S.A. 2C:24-4(b)5(a) and (b) are included in N.J.S.A. 2C:47-1 (Sex Offender Act).

4. Effective February 1, 2018, a court imposing sentence on a person who has been convicted of Endangering Welfare of a Child, N.J.S.A. 2C:24-4.1 (leader of a child pornography network) or an attempt to commit this offense, shall include, upon motion of the prosecutor, a special sentence of PSL in addition to any sentence authorized by Title 2C of the New Jersey Statutes, unless the court finds on the record that the special sentence is not needed to protect the community or deter the defendant from future criminal activity.

Note: Effective February 1, 2018, N.J.S.A. 2C:24-4.1 is included in N.J.S.A. 2C:47-1 (Sex Offender Act).

5. A court imposing sentence on a defendant who has been convicted of any offense enumerated in N.J.S.A. 2C:43-6.4(a) may not sentence the defendant to be placed on probation. N.J.S.A. 2C:43-2(g).
6. The special sentence of PSL shall commence immediately upon the defendant's release from incarceration. N.J.S.A. 2C:43-6.4(b).
7. If the defendant is serving a sentence of incarceration for another offense at the time he completes the custodial portion of the sentence imposed on the present offense, PSL shall not commence until the defendant is actually released from incarceration for the other offense. N.J.S.A. 2C:43-6.4(b).

8. When the court suspends the imposition of sentence on a defendant who has been convicted of any enumerated offense (see #1 above), the court may not suspend imposition of the special sentence of PSL, which shall commence immediately. The Division of Parole of the State Parole Board is to maintain supervision over the defendant, including the defendant's compliance with any condition imposed by the court. N.J.S.A. 2C:43-6.4(b).
9. Nothing prevents the court from at any time proceeding under the provisions of N.J.S.A. 2C:45-1 through 2C:45-4 against any defendant for a violation of any conditions imposed by the court when it suspended imposition of sentence. N.J.S.A. 43-6.4(b).
10. Nothing prevents the Division of Parole from proceeding with the administrative parole revocation process against any defendant for violation of any conditions of PSL including the conditions imposed by the court. N.J.S.A. 2C:43-6.4(b).
11. Upon petition by a person serving PSL, a judge may grant a petition for release from that parole supervision only upon proof by clear and convincing evidence that the person has not committed a crime for 15 years since the last conviction or release from incarceration, whichever is later, and that the person is not likely to pose a threat to the safety of others if released from parole supervision. Release from the service of the parole supervision term is by court order only and the State Parole Board has no jurisdiction in the matter. N.J.S.A. 2C:43-6(c).
12. A person who is sentenced to PSL for an offense enumerated in B.1. above committed prior to July 1, 2014 and who violates a condition of PSL without good case is guilty of a crime of the fourth degree. State v. Hester, 233 N.J. 381 (2018).
13. A person who is sentenced to PSL for an offense enumerated in B.1. above committed on or after July 1, 2014 and who violates a condition of PSL without good cause is guilty of a crime of the third degree. State v. Hester, 233 N.J. 381 (2018).
14. A person sentenced for violation of a condition of PSL shall be sentenced to a term of imprisonment, unless the court is clearly convinced that the interests of justice so far outweigh the need to deter this conduct and the interest in public safety that a sentence to imprisonment would be a manifest injustice. N.J.S.A. 2C:43-6.4(d).
15. The prosecution of a person who violates a condition of PSL for the commission of a crime of the third **or fourth** degree does not preclude subjecting the person to the administrative parole revocation hearing process. N.J.S.A. 2C:43-6.4(d).

16. Pursuant to N.J.S.A. 2C:43-6.4(e), a person who commits any of the following enumerated offenses while on PSL shall be sentenced to an extended term of imprisonment as set forth in N.J.S.A. 2C:43-7 which term shall, notwithstanding the provisions of N.J.S.A. 2C:43-7 or any other law, be served in its entirety before the person's resumption of PSL:

Aggravated Assault, 2C:12-1(b)

Burglary, 2C:18-2 (second degree only)

Criminal Sexual Contact, 2C:14-3

Endangering Welfare of a Child, 2C:24-4

Kidnapping, 2C:13-1

Leader of Child Pornography Network, 2C:24-4.1 (effective February 1, 2018)

Luring/Enticing, 2C:13-6

Murder, 2C:11-3

Manslaughter, 2C:11-4

Possession of Weapon for Unlawful Purpose, 2C:39-4(a) -
possession of any firearm with a purpose to use it unlawfully
against the person or property of another

Sexual Assault, 2C:14-2

Vehicular Homicide, 2C:11-5

17. If a parolee violates a condition of a PSL, the parolee shall be subject to the administrative parole revocation hearing process and may be returned to prison, notwithstanding that the parolee may not have been originally sentenced to or served any portion of a custodial term. N.J.S.A. 2C:43-6.4(b), N.J.S.A. 30:4-123.51b(c).
18. If revocation of parole and return of the parolee to custody are desirable, the appropriate board panel shall revoke parole and return the parolee to prison for a specified length of time between 12 and 18 months. N.J.S.A. 30:4-123.51b(c).
19. The time period established by the appropriate board panel upon revocation of parole shall not be reduced by commutation time for good behavior or credits for diligent application of work and other institutional assignments. N.J.S.A. 30:4-123.51b(c).

20. Upon the parolee's release from prison, the parolee shall continue to serve PSL until released from the service of said parole supervision by the Superior Court. N.J.S.A. 30:4-123.51b(c).
21. For the purpose of establishing a primary parole eligibility date pursuant to N.J.S.A. 30:4-123.51(h), the specific period of incarceration imposed by the appropriate board panel for violation of a condition of PSL shall not be aggregated with a term of imprisonment imposed on the parolee for the commission of any other offense. N.J.S.A. 30:4-123.51b(c).
22. The implementation of the administrative parole revocation hearing process and the revocation of the parole supervision term does not preclude or limit the State's ability to prosecute or convict the parolee for any crime defined in any law of this State. Further, the State's pursuit of a criminal action against the parolee does not preclude the Board's ability to implement the administrative parole revocation hearing process. N.J.S.A. 30:4-123.51b(c).
23. The rules and regulations of the State Parole Board pertaining to defendants sentenced to PSL are codified at N.J.A.C. 10A:71-6.12.

C. "No Early Release Act" (N.E.R.A.)

(N.J.S.A. 2C:43-7.2 – enacted June 7, 1997; amended June 29, 2001)

1. The pre-2001 version of N.J.S.A. 2C:43-7.2(a) provided that a court imposing a sentence of incarceration for a crime of the first or second degree, shall fix a minimum term of 85 percent of the sentence during which the defendant shall not be eligible for parole if the crime is "violent" as defined in the statute.
2. A violent crime is defined as any crime in which the actor caused death, caused serious bodily injury, or caused or threatened the immediate use of a deadly weapon. N.J.S.A. 2C:43-7.2(d). It also included any aggravated sexual assault or sexual assault in which the actor used, or threatened the immediate use of physical force. N.J.S.A. 2C:43-7.2(d).
3. Serious bodily injury means bodily injury which creates a substantial risk of death or which causes serious, permanent disfigurement, or protracted loss of impairment of the function of any bodily member or organ. N.J.S.A. 2C:11-1(b).
4. Effective June 29, 2001, the reference to violent crime was eliminated from N.J.S.A. 2C:43-7.2(a). NERA now applies to those first and second degree crimes specifically enumerated in N.J.S.A. 2C:43-7.2(d), including an attempt or conspiracy to commit these crimes.

5. The offenses enumerated in N.J.S.A. 2C:43-7.2(d) are as follows:

Aggravated Arson, 2C:17-1(a)1 – starts a fire or causes an explosion, whether on his own property or another's, thereby purposely or knowingly placing another person in danger or death or bodily injury

Aggravated Assault, 2C:12-1(b)

Aggravated Manslaughter or Manslaughter, 2C:11-4

Aggravated Sexual Assault, 2C:14-2(a)

Booby Traps in Manufacturing or Distribution Facilities,
2C:35-4.1(b) – second degree crime if knowingly assembles, maintains, places or causes to be placed a booby trap on property used for the manufacture, distribution, dispensing or possession of controlled dangerous substance with intent to manufacture, distribute or dispense controlled dangerous substances shall be guilty of a crime of the second degree. First degree crime if booby trap causes bodily injury to any person.

Burglary, 2C:18-2

Carjacking, 2C:15-2

Disarming a Law Enforcement Officer, 2C:12-11(b) – fires or discharges the firearm; uses or threatens to use the firearm or weapon against the officer or any other person; or the officer or another person suffers serious bodily injury

Drug-Induced Death (Strict Liability), 2C:35-9

Endangering the Welfare of a Child, 2C:24-4(b)3 – causing or permitting a child to engage in a prohibited sexual act, knowing or intending that the sexual act be reproduced or part of an exhibition or performance. (effective August 14, 2013)

Extortion, 2C:20-5(a) – purposely threatens to inflict bodily injury or physically confine or restrain anyone or commit any other criminal offense.

Firearms Trafficking, 2C:39-9(i) (effective November 1, 2013)

Kidnapping, 2C:13-1

Murder, 2C:11-3

Producing or Possessing Chemical Weapons, Biological Agents or Nuclear or Radiological Devices, 2C:38-3 (effective June 18, 2002)

Racketeering, 2C:41-2, first degree (effective January 13, 2008)

Robbery, 2C:15-1

Sexual Assault, 2C:14-2(b) – sexual contact with a victim who is less than 13 years old and the actor is at least four years older than the victim

Sexual Assault, 2C:14-2(c)1 – sexual penetration with another person and the actor uses physical force or coercion, but the victim does not sustain serious personal injury

Terrorism, 2C:38-2 (effective June 18, 2002)

Vehicular Homicide, 2C:11-5

6. The pre-2001 version of N.J.S.A. 2C:43-7.2(a) was interpreted by courts to preclude the imposition of an 85 percent parole ineligibility term on an extended term sentence. Imposition of an extended term sentence for a first or second degree violent crime could only include an 85 percent parole ineligibility term on the maximum ordinary term for the degree of the crime committed.
7. Effective June 29, 2001, the 85 percent parole ineligibility term is required to be imposed as a component of sentence whether the sentence is imposed as an ordinary term of imprisonment, an extended term of imprisonment, or a term of imprisonment for murder. N.J.S.A. 2C:43-7.2(b). For the purpose of calculating the parole ineligibility term, a sentence of life imprisonment shall be deemed to be 75 years. N.J.S.A. 2C:43-7.2(b).
8. In addition to imposing an 85 percent parole ineligibility term, a court must also impose a mandatory term of five (5) years parole supervision when sentence is being imposed for a crime of the first degree and a mandatory term of three (3) years parole supervision when sentence is being imposed for a crime of the second degree. N.J.S.A. 2C:43-7.2(c).
9. The mandatory term of parole supervision shall commence upon the completion of the sentence of incarceration. N.J.S.A. 2C:43-7.2(c).
10. If the defendant is serving a sentence of incarceration for another offense at the time he completes the custodial portion of the sentence imposed on the present offense, the mandatory term of

parole supervision shall not commence until the defendant is actually released from incarceration for the other offense. N.J.S.A. 2C:43-7.2(c).

11. During the term of mandatory parole supervision, the defendant remains in the legal custody of the Commissioner of the Department of Corrections; shall be supervised in the Division of Parole of the State Parole Board; and shall be subject to the provisions of the administrative Parole revocation hearing process. N.J.S.A. 30:4-123.51b(a).
12. If the defendant violates the conditions of parole, the defendant may be re-incarcerated for the balance of the parole term. N.J.S.A. 30:4-123.51b(a).
13. NERA applies to an accomplice of a person committing a qualifying offense subject to NERA.
14. Under the pre-2001 version, N.J.S.A. 2C:43-7.2(a) did not apply to the crime of murder. State v. Manzie, 335 N.J. Super. 267 (App.Div.2000), aff'd 168 N.J. 113 (2001); State v. Chavies, 345 N.J. Super. 254 (App.Div.2001).
15. Prior to June 29, 2001 N.J.S.A. 2C:43-7.2(e) provided that a court shall not impose sentence pursuant to this statute unless the ground therefore has been established at a hearing after the defendant's conviction and upon written notice to the defendant of the ground proposed. The statute gave the defendant the right to hear and controvert the evidence against him or her and to offer evidence upon the issue. This provision was deleted effective June 29, 2001.
16. Although an offense may be downgraded one degree for sentencing pursuant to N.J.S.A. 2C:44-1(f)2, the defendant remains sentenced for the offense on which he stands convicted. The mandatory parole supervision term required to be imposed is based on the degree of the crime the defendant stands convicted of and not the downgraded offense for the purpose of sentencing. State v. Cheung, 328 N.J. Super. 368 (App.Div.2000).
17. A young adult offender sentence under N.J.S.A. 2C:43-5 cannot be imposed on a conviction for any crime to which NERA applies. State v. Corriero, 357 N.J. Super. 214 (App.Div.2003).
18. Gap-time credit awarded pursuant to N.J.S.A. 2C:44-5(b)2 cannot be applied to reduce the 85 percent parole ineligibility term mandated by NERA. Meyer v. N.J. State Parole Board, 345 N.J. Super. 424 (App.Div.2001), cert. denied, 171 N.J. 339 (2002).

19. When an offender has been sentenced to consecutive custodial terms under NERA, the periods of parole supervision that follow must be served consecutively. State v. Friedman, 209 N.J. 102 (2012).

D. Sex Offender Act

(N.J.S.A. 2C:47-1, effective December 1, 1998)

1. Whenever a person is convicted of an enumerated offense or an attempt to commit any such crime, the Department of Corrections is required to perform a psychological examination of the offender. The examination shall include a determination of whether the offender's conduct was characterized by a pattern of repetitive, compulsive behavior and, if it was, a further determination of the offender's amenability to sex offender treatment and willingness to participate in such treatment. N.J.S.A. 2C:47-1.
2. No examination is required if the offender is to be sentenced to a term of life imprisonment without eligibility for parole. N.J.S.A. 2C:47-1.
3. The enumerated offenses are as follows:

Aggravated Criminal Sexual Contact, 2C:14-3(a)

Aggravated Sexual Assault, 2C:14-2(a)

Endangering Welfare of a Child, 2C:24-4(a) – limited to engaging in sexual conduct which would impair or debauch the morals of the child

Endangering Welfare of a Child, 2C:24-4(b)4 – photographing or filming a child or a prohibited sexual act or in simulation of such an act or who uses any device, including a computer, to reproduce or reconstruct the image of a child in a prohibited sexual act or in the simulation of such an act

Endangering Welfare of a Child, 2C:24-4(b)5(a) – distributing, possessing with the intent to distribute or storing or maintaining by using a file-sharing program which is designated as available for searching or copying to one or more other computers an item that depicts the sexual exploitation or abuse of a child (effective February 1, 2018)

Endangering Welfare of a Child, 2C:24-4(b)5(b) – possessing, viewing or having control, through any means, including the Internet, items depicting the sexual exploitation or abuse of a child (effective February 1, 2018)

Kidnapping, 2C:12-1(c)2 – if the victim is less than 16 years of age and if during the kidnapping:

- (a) a crime under 2C:14-2 or 2C:14-3(a) is committed against the victim;
- (b) a crime under 2C:24-4(b) is committed against the victim; or
- (c) the actor sells or delivers the victim to another person for pecuniary gain other than in circumstances which lead to the return of the victim to a parent, guardian or other person responsible for the general supervision of the victim.

Leader of Child Pornography Network, 2C:24-4.1 (effective February 1, 2018)

Sexual Assault, 2C:14-2(b), (c)

Attempt to Commit an enumerated offense

- 4. If the psychological evaluation determines that the three criterion have been met, the court must still evaluate same and shall record its findings on the judgment of conviction. N.J.S.A. 2C:47-3(a).
- 5. If the court determines that the offender's conduct was characterized by a pattern of repetitive, compulsive behavior and that the offender is amenable to sex offender treatment and willing to participate in such treatment, the court shall, upon the recommendation of the Department of Corrections, sentence the offender to a term of incarceration to be served at the Adult Diagnostic and Treatment Center (A.D.T.C.) or place the offender on probation* with the requirement, as a condition of probation, that the offender receive outpatient psychological or psychiatric treatment as prescribed. N.J.S.A. 2C:47-3(b).
Note: Probation is not an authorized disposition for an offense enumerated in N.J.S.A. 2C:43-6.4. N.J.S.A. 2C:43-2(g).
- 6. If the Department of Correction's report reveals that the offender's conduct was not repetitive and compulsive or that the offender is not amenable to sex offender treatment, the court shall not impose a sentence to be served at the A.D.T.C. A standard prison sentence imposed on an offender who is not amenable to sex offender treatment shall not be reduced by commutation time for good behavior or credits for work or minimum custody status. N.J.S.A. 2C:43-7(d).
- 7. If the court finds the offender to be "repetitive and compulsive," "amenable" but not "willing," the court shall sentence the offender to a term of incarceration to be served in a facility designated by the

Commissioner of the Department of Corrections. The offender shall become primarily eligible for parole in accordance with N.J.S.A. 2C:47-5 (referral by Special Classification Review Board), but not prior to the expiration of any judicial or statutory mandatory minimum term. On a biennial basis the offender may request to be transferred to the A.D.T.C. If the Department of Corrections determines, upon the completion of a psychological evaluation, that the offender is “amenable” and “willing,” the offender may be transferred to the A.D.T.C. N.J.S.A. 2C:47-3(f).

8. A sentence imposed pursuant to N.J.S.A. 2C:47-3(f) shall not be reduced by commutation for good behavior or work and minimum custody credits for any year or fractional part of a year the offender is confined in a facility other than the A.D.T.C. However, if at any time the offender is transferred to the A.D.T.C., the sentence imposed shall be reduced by commutation time for good behavior and work and minimum custody credits for any year or fractional part of a year that the offender is incarcerated at the A.D.T.C. following the date of such transfer. N.J.S.A. 2C:47-3(g).
9. When an A.D.T.C. sentence is imposed pursuant to N.J.S.A. 2C:47-3(b) and the sentence is seven (7) years or less, the offender shall be confined in the A.D.T.C. as soon as practicable after the date of sentence. N.J.S.A. 2C:43-7(h)1.
10. If the court imposes a sentence pursuant to N.J.S.A. 2C:47-3(b) and the sentence is more than seven (7) years, the offender shall first be confined in a facility designated by the Commissioner. At least 30 days prior to the date which precedes the expiration of the offender’s sentence in five (5) years, including applicable credits, Department of Corrections shall complete a psychological evaluation to determine if the offender is “amenable” and “willing.” If the report reveals that the offender is “amenable” and “willing,” the offender shall be transferred to the A.D.T.C. as soon as practicable. If the report reveals the offender is not “amenable” or is “amenable” but not “willing,” the offender shall not be transferred to the A.D.T.C. On a biennial basis, the offender may request to be transferred to the A.D.T.C. If the Department of Corrections determines, upon the completion of a psychological evaluation, that the offender is “amenable” and “willing”, the offender shall be transferred to the A.D.T.C. N.J.S.A. 2C:47-3(h)2.
11. If the court imposes a sentence pursuant to N.J.S.A. 2C:47-3(b) and the sentence is subject to N.J.S.A. 2C:43-7.2 (“No Early Release Act”) or if any other judicial or statutory mandatory minimum term of more than seven (7) years is imposed, the offender shall be confined in a facility designated by the Commissioner. Refer to paragraph #10 above for the required

evaluation to be performed and the potential transfer of the offender to the A.D.T.C. N.J.S.A. 2C:47-3(h)3.

12. A sentence imposed pursuant to N.J.S.A. 2C:47-3(b) shall not be reduced by commutation time for good behavior or work and minimum custody credits for any year or fractional part of a year from the date the Department of Corrections determines, as a result of a psychological evaluation conducted pursuant to N.J.S.A. 2C:47-3(h)2 or 3 (see paragraph #10) that the offender is not “amenable” or not “willing.” If the Department of Corrections subsequently determines that the offender is “amenable” and “willing” and is transferred to the A.D.T.C., the sentence shall be reduced by commutation time for good behavior and work and minimum custody credits for any year or fractional part of a year that the offender is confined at the A.D.T.C. following the date of transfer. N.J.S.A. 2C:47-3(i).
13. The Commissioner is required to provide treatment of a sex offender sentenced pursuant to N.J.S.A. 2C:47-1 et seq. only when the offender is incarcerated in the A.D.T.C. This requirement does not apply when the offender is incarcerated in another facility. N.J.S.A. 2C:47-3(k).
14. The Commissioner is authorized to transfer out of the A.D.T.C. any offender who is not participating in or cooperating with sex offender treatment or who is determined to be no longer “amenable” to sex offender treatment. N.J.S.A. 2C:47-4.1(a).
15. Any offender transferred out of the A.D.T.C. pursuant to N.J.S.A. 2C:47-4.1(a) may, on a biennial basis, request a transfer back to the A.D.T.C. The Department of Corrections shall conduct a psychological evaluation and if it is determined that the offender is “amenable” and “willing,” the Commissioner shall order the offender back to the A.D.T.C. N.J.S.A. 2C:47-4.1(b).
16. A sentence imposed on an offender transferred out of the A.D.T.C. pursuant to N.J.S.A. 2C:47-4.1(a) shall not be reduced by commutation time for good behavior or work and minimum custody credits for any year or fractional part of a year following the date of the transfer. However, if at any time the offender is transferred back to the A.D.T.C., the sentence shall be reduced by commutation time for good behavior and work and minimum custody credits for any year or fractional part of a year that the offender is incarcerated at the A.D.T.C. following the date of such transfer. N.J.S.A. 2C:47-4.1(c).
17. Any offender committed to confinement under N.J.S.A. 2C:47-1 et seq. shall become eligible for parole consideration upon referral to the State Parole Board of the offender’s case by a Special

Classification Review Board appointed by the Commissioner. The referral shall be based on the determination by the Special Classification Review Board that the offender has achieved a satisfactory level of progress in sex offender treatment. The offender shall be released on parole unless the S.P.B. determines that the information supplied in the preparole report or developed or produced at a hearing indicates by a preponderance of the evidence that the offender has failed to cooperate in his or her own rehabilitation or that there is a reasonable expectation that the offender will violate conditions of parole if released on parole at that time. N.J.S.A. 2C:47-5(a).

18. If the court finds that the offender's conduct was not characterized by a pattern of repetitive, compulsive behavior or finds that the offender is not amenable to sex offender treatment (see paragraph #6 above) or if after sentencing the Department of Corrections in its most recent examination determines that the offender is not amenable to sex offender treatment, the offender shall become primarily eligible for parole after having served any judicial or statutory mandatory minimum term or one third of the sentence imposed where no mandatory minimum term has been imposed. Neither such term shall be reduced by commutation time for good behavior or work and minimum custody credits. N.J.S.A. 30:4-123.51(e).
19. Where a sex offender's parole is revoked, the Department of Corrections shall, within ninety days of revocation, complete a psychological examination of the offender to determine whether the parole violation reflects emotional or behavioral problems that cause the offender to be incapable of making any acceptable social adjustment in the community, and whether the offender is amenable to and willing to participate in sex offender treatment. N.J.S.A. 2C:47-5.1(a). If all three findings are made in the affirmative, the offender shall be confined in the A.D.T.C. N.J.S.A. 2C:47-5.1(b). If the first two findings are made in the affirmative, but the offender is not willing to participate in sex offender treatment, the offender shall be confined in a facility designated by the Commissioner of the Department of Corrections. N.J.S.A. 2C:47-5.1(c). In either case, the offender shall be eligible for parole in accordance with N.J.S.A. 2C:47-5.1(b) and (c).
20. If the offender's parole violation does not reflect problems as a sex offender or if the offender is not amenable to sex offender treatment, the offender shall be confined in a facility other than the A.D.T.C. N.J.S.A. 2C:47-5.1(d)1. The offender shall be eligible for parole in accordance with N.J.S.A. 30:4-123.45 et seq. A parole eligibility date established pursuant to N.J.S.A. 30:4-123.64 or a future parole eligibility date established pursuant to N.J.S.A. 30:4-123.56 shall not be reduced by commutations for good behavior or

credits for work or minimum custody credits. N.J.S.A. 2C:47-5.1(d)2.

21. If the offender is confined pursuant to N.J.S.A. 2C:47-5.1(c) or N.J.S.A. 2C:47-5.1(d)1 in a facility other than the A.D.T.C., the offender on a biennial basis may request to be transferred to the A.D.T.C. If the Department of Corrections determines, upon the completion of a psychological evaluation, that the offender is “amenable” and “willing”, the offender shall be transferred to the A.D.T.C. as soon as practicable. N.J.S.A. 2C:47-5.1(f). When an offender previously determined not to be “amenable” is transferred to the A.D.T.C., the offender shall be eligible for parole pursuant to N.J.S.A. 2C:47-5.