

Notice of Agency Rulemaking Proposal

AGENCY: Maine Department of Corrections

CHAPTER NUMBER AND TITLE: Ch. 10, Supervised Community Confinement

TYPE OF RULE (*check one*): ☒ Routine Technical ☐ Major Substantive

PROPOSED RULE NUMBER (*leave blank; to be assigned by Secretary of State*):

BRIEF SUMMARY: The primary reason this rule is being proposed is to make permanent and expand on the emergency amendment to the rule governing supervised community confinement in order to fulfill the requirements of 34-A MRSA Section 3036-A, as amended by Public Law 2021, Chapter 376, entitled “An Act To Provide Pathways to Rehabilitation, Reentry and Reintegration.” The provisions in this rule establish the timeframes for when a resident of a Department of Corrections adult facility is eligible to apply for transfer to supervised community confinement, the application process, the criteria and process for determining whether a resident is approved for transfer, and requirements after transfer to supervised community confinement.

Copies of the proposed rule are available upon request by contacting the Department contact person or on the Department of Corrections website at <https://www.maine.gov/corrections/policies-procedures-proposed-rules>.

Date, time and location of PUBLIC HEARING (*if any*): Tuesday, December 21, 2021 at 1:00 p.m.

This hearing will be conducted via a Microsoft Teams virtual meeting. Anyone wishing to attend should join the Microsoft Teams meeting accessible at this link [Public Hearing on Microsoft Teams for Supervised Community Confinement](https://teams.microsoft.com/l/meetup-join/19%3ameeting_NzQ0YTUwNjYtNzAzYi00OWY5LWJhZGZlOWE3NjNlZjA1OTRi%40thread.v2/0?context=%7b%22Tid%22%3a%22413fa8ab-207d-4b62-9bcd-ea1a8f2f864e%22%2c%22Oid%22%3a%229872e9d5-880e-4f1f-be1b-6bf71ee7bf8d%22%7d) or https://teams.microsoft.com/l/meetup-join/19%3ameeting_NzQ0YTUwNjYtNzAzYi00OWY5LWJhZGZlOWE3NjNlZjA1OTRi%40thread.v2/0?context=%7b%22Tid%22%3a%22413fa8ab-207d-4b62-9bcd-ea1a8f2f864e%22%2c%22Oid%22%3a%229872e9d5-880e-4f1f-be1b-6bf71ee7bf8d%22%7d

In addition, directions on how to attend the hearing will be posted on the Department of Corrections website and sent upon request to interested persons.

The Department requests that any interested party requiring special arrangements to attend the hearing contact the agency person listed above before Tuesday, Dec. 14, 2021.

COMMENT DEADLINE: Monday, January 3, 2022

Written comments may be submitted by mail, e-mail, or fax to the contact person before the end of the comment period. To ensure the comments are considered, they must include the name of the commenter and the organization represented, if any.

CONTACT PERSON FOR THIS FILING (*include name, mailing address, telephone, fax, TTY, email*):

Mary Lucia
Department of Correction
111 SHS
Augusta ME 04333
Phone: (207) 530-0983
Fax: (207) 287-4370
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CONTACT PERSON FOR SMALL BUSINESS IMPACT STATEMENT *(if different)*: N/A

FINANCIAL IMPACT ON MUNICIPALITIES OR COUNTIES *(if any)*: None

STATUTORY AUTHORITY FOR THIS RULE: 34-A MRSA Section 3036-A

SUBSTANTIVE STATE OR FEDERAL LAW BEING IMPLEMENTED *(if different)*:

AGENCY WEBSITE: <https://www.maine.gov/corrections/>

EMAIL FOR OVERALL AGENCY RULEMAKING LIAISON: mary.a.lucia@maine.gov

** Check one of the following two boxes.*

- ☒ *The summary provided above is for publication in both the newspaper and website notices.*
- ☐ *The summary provided above is for the newspaper notice only. Title 5 §8053, sub-§5 & sub-§7, ¶D. A more detailed summary is attached for inclusion in the rulemaking notice posted on the Secretary of State's website. Title 5 §8053, sub-§3, ¶D & sub-§6.*
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Additional Information for the Web *(if any)*

DETAILED SUMMARY:

Under the rule:

1. The time eligibility for transfer to supervised community confinement is expanded from “no more than eighteen (18) months” remaining to be served to “no more than two (2) years” remaining to be served. Further, if the average statewide probation officer case load is no more than ninety (90) clients per probation officer, the eligibility will be expanded from “no more than two (2) years remaining to be served” to “no more than thirty (30) months remaining to be served.”
2. Criteria and a process are established for determining whether a resident eligible for transfer to supervised community confinement will be approved, with the primary determining factor being the resident’s likelihood of completion of supervised community confinement if transferred.
3. Guidance is provided to Department staff as to how to apply the established criteria when conducting a review for transfer to supervised community confinement .
4. An appeal process is included that provides that a resident who is eligible for transfer to supervised community confinement but who has not been approved for transfer to appeal that determination.
5. Provisions are included for the transfer of terminally ill or severely incapacitated residents to supervised community confinement.
6. All residents will be provided written information about supervised community confinement, including eligibility requirements, the criteria and review and approval process, and the mandatory conditions.
7. The Department is required to track data for all residents who apply for supervised community confinement and approval, denial and, if approved, completion of the program. Such data must include, but is not limited to, demographic data regarding race and ethnicity, gender, age and convictions leading to the resident’s current imprisonment.
8. The term “prisoner” is replaced with the term “resident” or “client.”