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CRIMINAL JUSTICE AND PUBLIC SAFETY

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**STATE OF MAINE
HOUSE OF REPRESENTATIVES
130TH LEGISLATURE
FIRST SPECIAL SESSION**

COMMITTEE AMENDMENT “ ” to H.P. 1182, L.D. 1593, “An Act To Provide Pathways to Rehabilitation, Reentry and Reintegration”

Amend the bill by striking out everything after the enacting clause and inserting the following:

'Sec. 1. 34-A MRSA §3036-A, sub-§1, as enacted by PL 1991, c. 845, §4, is amended to read:

1. Establishment. The commissioner ~~may~~ shall adopt rules establishing and governing a supervised community confinement program for certain prisoners committed to the department.

Sec. 2. 34-A MRSA §3036-A, sub-§2, as amended by PL 2019, c. 113, Pt. C, §§91 to 93, is further amended to read:

2. Participation and eligibility. The commissioner may transfer any prisoner committed to the department ~~to be transferred~~ from a correctional facility to supervised community confinement subject to the following restrictions.

A. A transfer to supervised community confinement may ~~only~~ be granted only subject to rules adopted by the commissioner.

B. A prisoner may not be transferred to supervised community confinement until the prisoner has served at least 2/3 of the term of imprisonment imposed or, in the case of a split sentence, at least 2/3 of the unsuspended portion, after consideration of any deductions that the prisoner has received and retained under Title 17-A, section 2302, subsection 1; section 2305; section 2307; section 2308; section 2309; section 2310; or section 2311 if the term of imprisonment or, in the case of a split sentence, the unsuspended portion is more than 5 years. A prisoner may not be transferred to supervised community confinement until the prisoner has served at least 1/2 of the term of imprisonment imposed or, in the case of a split sentence, at least 1/2 of the unsuspended portion after consideration of any deductions that the prisoner has received and retained under Title 17-A, section 2302, subsection 1; section 2305;

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1 section 2307; section 2308; section 2309; section 2310; or section 2311 if the term of
2 imprisonment or, in the case of a split sentence, the unsuspended portion is 5 years or
3 less.

4 C. Except as provided in paragraph C-1, a prisoner may not be transferred to
5 supervised community confinement unless the prisoner has no more than ~~18 months~~ 2
6 years remaining on the term of imprisonment or, in the case of a split sentence, on the
7 unsuspended portion, after consideration of any deductions that the prisoner has
8 received and retained under Title 17-A, section 2302, subsection 1; section 2305;
9 section 2307; section 2308; section 2309; section 2310; or section 2311.

10 C-1. If the commissioner determines that the average statewide probation case load is
11 no more than 90 probationers to one probation officer, then a prisoner may be
12 transferred to supervised community confinement if that prisoner has no more than 2
13 years 30 months remaining on the term of imprisonment or, in the case of a split
14 sentence, on the unsuspended portion, after consideration of any deductions that the
15 prisoner has received and retained under Title 17-A, section 2302, subsection 1; section
16 2305; section 2307; section 2308; section 2309; section 2310; or section 2311.

17 D. A prisoner may not be transferred to supervised community confinement if the
18 prisoner has a security custody classification level higher than minimum.

19 **Sec. 3. 34-A MRSA §3036-A, sub-§2-A** is enacted to read:

20 **2-A. Criteria and process.** The commissioner shall establish criteria and a process
21 for determining whether a prisoner eligible for transfer to supervised community
22 confinement as provided in subsection 2 is approved for transfer. The primary determining
23 factor for approval must be the prisoner’s likelihood of completion of supervised
24 community confinement if transferred.

25 A. The criteria must be evidence-based and designed to evaluate the likelihood of a
26 prisoner’s completion of supervised community confinement if transferred. The
27 criteria must be specific and include, but may not be limited to, fulfillment of
28 expectations as to conduct, fulfillment of expectations as to work, education and
29 rehabilitation programs assigned in the case plan, other rehabilitative efforts and
30 accomplishments, arrangements for suitable housing in the community, taking into
31 consideration the proximity of this housing to the victim, and the existence of support
32 systems and resources in the community.

33 B. The process must reflect best practices for evaluating the likelihood of a prisoner’s
34 completion of supervised community confinement if transferred and must provide
35 guidance to department staff as to how to apply the established criteria when
36 conducting the evaluation. The process must require, when information is obtained by
37 the department from persons in the community for the purpose of determining whether
38 to approve a prisoner for transfer to supervised community confinement, that those
39 persons be informed of the prisoner’s fulfillment of expectations as to conduct,
40 fulfillment of expectations as to work, education, and rehabilitation programs assigned
41 in the case plan and other rehabilitative efforts and accomplishments. The process
42 must also include the right of a prisoner who is eligible for transfer to supervised
43 community confinement as provided in subsection 2 but who has not been approved
44 for transfer to appeal that determination to the commissioner.

1 **Sec. 4. 34-A MRSA §3036-A, sub-§7, ¶C**, as enacted by PL 1991, c. 845, §4, is
2 amended to read:

3 C. Criminal, court and ~~police~~ law enforcement agency investigations; and

4 **Sec. 5. 34-A MRSA §3036-A, sub-§10**, as amended by PL 2009, c. 391, §16, is
5 further amended to read:

6 **10. Terminally ill or incapacitated prisoner.** With the consent of the prisoner, the
7 commissioner may ~~permit transfer~~ a prisoner committed to the department ~~to be transferred~~
8 from a correctional facility to supervised community confinement without meeting the
9 eligibility requirements of subsection 2, paragraphs B and C and without meeting the
10 criteria or fulfilling the process provided for under subsection 2-A if the department's
11 director of medical care has determined that the prisoner has a terminal or severely
12 incapacitating medical condition and that care outside a correctional facility is medically
13 appropriate. Except as set out in this subsection, the prisoner ~~shall~~ must live in a hospital
14 or other appropriate care facility, such as a nursing facility, residential care facility or a
15 facility that is a licensed hospice program pursuant to Title 22, section 8622, approved by
16 the commissioner. As approved by the commissioner, the prisoner may receive hospice
17 services from an entity licensed pursuant to Title 22, chapter 1681, subchapter 1 or other
18 care services provided by an entity approved by the commissioner and, subject to approval
19 by the commissioner, may live at home while receiving these services. The commissioner
20 may exempt a prisoner transferred to supervised community confinement pursuant to this
21 subsection from any mandatory condition under subsection 3 that the commissioner
22 determines to be inapplicable. The prisoner shall provide any information pertaining to the
23 prisoner's medical condition or care that is requested by the commissioner at any time while
24 the prisoner is on supervised community confinement. If the commissioner determines
25 that the prisoner has failed to fully comply with a request or if at any time the department's
26 director of medical care determines that the prisoner does not have a terminal or severely
27 incapacitating medical condition or that care outside a correctional facility is not medically
28 appropriate, the commissioner shall revoke the transfer to supervised community
29 confinement.

30 **Sec. 6. 34-A MRSA §3036-A, sub-§12** is enacted to read:

31 **12. Information for prisoners.** The department shall make available to all prisoners
32 written information about supervised community confinement, including eligibility
33 requirements, the application process and the criteria and process for determining whether
34 a prisoner eligible for transfer to supervised community confinement may be approved for
35 transfer.

36 **Sec. 7. 34-A MRSA §3036-A, sub-§13** is enacted to read:

37 **13. Data tracking.** The department shall track data for all prisoners who apply for
38 supervised community confinement and approval, denial and, if approved, completion of
39 the program. Such data must include, but is not limited to, demographic data regarding
40 race and ethnicity, gender, age and convictions leading to the prisoner's current
41 incarceration.'

42 Amend the bill by relettering or renumbering any nonconsecutive Part letter or section
43 number to read consecutively.

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SUMMARY

This amendment is the majority report of the committee. The amendment replaces the bill, which is a concept draft. The amendment amends the supervised community confinement program. The amendment requires the Commissioner of Corrections to adopt rules for the program and to establish criteria and a process for determining eligibility for the program. The amendment provides streamlined eligibility for a prisoner who has a terminal or severely incapacitating medical condition if care outside a correctional facility is medically appropriate. The amendment adds to the supervised community confinement program requirements for providing program information to prisoners. The amendment adds a requirement that the Department of Corrections track data for all prisoners who apply for the program.