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Date: (Filing No. H-)

CRIMINAL JUSTICE AND PUBLIC SAFETY

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**STATE OF MAINE
HOUSE OF REPRESENTATIVES
132ND LEGISLATURE
FIRST SPECIAL SESSION**

COMMITTEE AMENDMENT “ ” to H.P. 1119, L.D. 1684, “An Act to Exclude from Eligibility for a Community Confinement Monitoring Program a Person Serving a Sentence for Certain Domestic Violence Crimes”

Amend the bill by striking out the title and substituting the following:

'An Act to Implement Additional Criteria and Processes for the Supervised Community Confinement Program'

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

'Sec. 1. 34-A MRSA §3036-A, sub-§2-A, ¶B, as enacted by PL 2021, c. 376, §3, is amended to read:

B. The process must reflect best practices for evaluating the likelihood of a prisoner's completion of supervised community confinement if transferred and must provide guidance to department staff as to how to apply the established criteria when conducting the evaluation. The process must require, when information is obtained by the department from persons in the community for the purpose of determining whether to approve a prisoner for transfer to supervised community confinement, that those persons be informed of the prisoner's fulfillment of expectations as to conduct, fulfillment of expectations as to work, education, and rehabilitation programs assigned in the case plan and other rehabilitative efforts and accomplishments. The process must include consideration of any information provided by the Office of Victim Services, as established in section 1214, and, if requested by the office, allow for an extension of time necessary for the office to make additional good faith efforts to contact any victims of the crimes for which the prisoner is incarcerated. The process must include an evaluation of whether the proposed supervised community confinement plan is responsive to reasonable safety concerns raised by persons in the community, including any victims of the crimes for which the prisoner is incarcerated. The process must also include the right of a prisoner who is eligible for transfer to

COMMITTEE AMENDMENT

1 supervised community confinement as provided in subsection 2 but who has not been
2 approved for transfer to appeal that determination to the commissioner.

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

4 **2-B. Additional process for prisoners incarcerated for crime committed against**
5 **family or household member or dating partner.** In addition to the process required by
6 subsection 2-A, in determining whether a prisoner incarcerated for a crime that was
7 committed against a family or household member, as defined in Title 19-A, section 4102,
8 subsection 6, or dating partner, as defined in Title 19-A, section 4102, subsection 4, is
9 approved for transfer, the process under this subsection must provide for the following:

10 A. Review and consideration of the results of any validated, evidence-based domestic
11 violence risk assessment, including one that has been completed by a law enforcement
12 officer in accordance with Title 19-A, section 4114, subsection 6, paragraph E as part
13 of the criminal case for which the prisoner is incarcerated; and

14 B. Notification of the application for transfer to supervised community confinement
15 to the district attorney of the county in which the conviction was entered as well as a
16 local domestic violence resource center.

17 **Sec. 3. 34-A MRSA §3036-A, sub-§3, ¶K** is enacted to read:

18 K. When required by the commissioner and to the extent that the commissioner
19 determines that the prisoner has the financial resources, the prisoner shall continue to
20 pay any outstanding victim restitution at a level similar to what the prisoner would have
21 had to pay if the prisoner had remained incarcerated at a department correctional
22 facility.

23 **Sec. 4. 34-A MRSA §3036-A, sub-§10**, as amended by PL 2023, c. 659, §2, is
24 further amended to read:

25 **10. Terminally ill or incapacitated prisoner.** With the consent of the prisoner, the
26 commissioner may transfer a prisoner committed to the department from a correctional
27 facility to supervised community confinement without meeting the eligibility requirements
28 of subsection 2, paragraphs B and C and without meeting the criteria or fulfilling the
29 process provided for under ~~subsection~~ subsections 2-A and 2-B if the department's director
30 of medical care has determined that the prisoner has a terminal or severely incapacitating
31 medical condition or has a worsening prognosis that is likely to result in a terminal or
32 severely incapacitating medical condition and that care outside a correctional facility is
33 medically appropriate. Except as set out in this subsection, the prisoner must live in a
34 hospital or other appropriate care facility, such as a nursing facility, residential care facility
35 or a facility that is a licensed hospice program pursuant to Title 22, section 8622, approved
36 by the commissioner. As approved by the commissioner, the prisoner may receive hospice
37 services from an entity licensed pursuant to Title 22, chapter 1681, subchapter 1 or other
38 care services provided by an entity approved by the commissioner and, subject to approval
39 by the commissioner, may live at home while receiving these services. The commissioner
40 may exempt a prisoner transferred to supervised community confinement pursuant to this
41 subsection from any mandatory condition under subsection 3 that the commissioner
42 determines to be inapplicable. The prisoner shall provide any information pertaining to the
43 prisoner's medical condition or care that is requested by the commissioner at any time while
44 the prisoner is on supervised community confinement. If the commissioner determines that

1 the prisoner has failed to fully comply with a request or if at any time the department's
2 director of medical care determines that the prisoner does not have a terminal or severely
3 incapacitating medical condition or a worsening prognosis that is likely to result in a
4 terminal or severely incapacitating medical condition or that care outside a correctional
5 facility is not medically appropriate, the commissioner shall revoke the transfer to
6 supervised community confinement.'

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

9 **SUMMARY**

10 This amendment, which is the majority report of the committee, replaces the bill and
11 changes the title. The amendment requires that the process and criteria for determining a
12 Department of Corrections prisoner's eligibility in the supervised community confinement
13 program includes considering input from the Office of Victim Services within the
14 department and further requires that a prisoner's supervised community confinement
15 program plan is responsive to reasonable community and victim concerns. The amendment
16 also provides that the process and criteria must include review and consideration of any
17 validated, evidence-based domestic violence risk assessment for a prisoner who is
18 incarcerated for a crime committed against a family or household member or dating partner.
19 The amendment requires a prisoner who is released to the supervised community
20 confinement program to continue paying any victim restitution similar to what the prisoner
21 would have paid if the prisoner had stayed in a department correctional facility.

22 **FISCAL NOTE REQUIRED**

23 **(See attached)**