

§1659-A. Community confinement monitoring program

The sheriff of each county shall establish a program to permit certain inmates to serve a portion of their sentence of imprisonment in community confinement monitored by the county or a contract agency or another county or its contract agency. The county may contract only with a community confinement monitoring agency approved by the Department of Corrections. [PL 2015, c. 335, §18 (AMD).]

1. Petition. A sheriff, upon written request from an inmate eligible under subsection 2 for participation in a community confinement monitoring program and recommended by the jail administrator, may assign the inmate to participate in a community confinement monitoring program. At the time of granting this privilege, the sheriff shall determine whether the inmate is responsible for the cost of participating in the program based on the inmate's ability to pay. [PL 2023, c. 250, §1 (AMD).]

2. Eligibility. Inmates are eligible to participate in a community confinement monitoring program if:

A. The inmate's residence is located within the State and in a location that does not in any way restrict the adequate monitoring of the inmate; [PL 2009, c. 391, §6 (NEW).]

B. The inmate has been sentenced to the county jail; [PL 2009, c. 391, §6 (NEW).]

C. The inmate is not serving a sentence for a sex offense or a sexually violent offense as defined under Title 34-A, section 11203; [PL 2009, c. 391, §6 (NEW).]

C-1. The inmate is not serving a sentence for a crime against a family or household member as defined in Title 19-A, section 4102, subsection 6, unless the jail administrator has determined that the inmate is not reasonably likely to pose a risk to the safety of others in the community after the jail administrator has:

(1) Reviewed the available criminal history record of the inmate to, at a minimum, identify any patterns of behavior that may indicate the inmate poses a risk to the safety of others in the community;

(2) Reviewed and considered any other available evidence that the inmate poses a risk to the safety of others in the community, including the results of any validated, evidence-based domestic violence risk assessment that has been completed by law enforcement in accordance with Title 19-A, section 4114, subsection 6, paragraph E as part of the criminal case for which the inmate is incarcerated;

(3) Made a good faith and documented effort to contact the victim of the crime for which the inmate is incarcerated to inform the victim of the inmate's application to participate in a community confinement monitoring program and inquire about any concerns the victim has for the victim's safety or the safety of any member of the victim's household in connection to the inmate's application to participate in a community confinement monitoring program;

(4) Considered any concerns provided pursuant to subparagraph (3) by the victim of the crime for which the inmate is incarcerated;

(5) Provided notice to the district attorney of the county in which the conviction was entered and a local domestic violence resource center; and

(6) Certified that each of the requirements in this subsection has been met. The certification must be on a form recommended by the inspections division of the Department of Corrections and must:

- (a) Include details regarding any concerns provided pursuant to subparagraph (3) by the victim of the crime for which the inmate is incarcerated, unless the victim has requested otherwise;
- (b) Be signed by the jail administrator; and
- (c) Be provided to the sheriff for review prior to the sheriff's approving assignment of the inmate to a community confinement monitoring program.

If a sheriff assigns an inmate serving a sentence for a crime against a family or household member as defined in Title 19-A, section 4102, subsection 6 to a community confinement monitoring program, a representative from the county jail to which the inmate has been sentenced shall make a good faith attempt to notify the victim of that crime of the assignment at least 10 days prior to the inmate's release from the county jail. Notification of the victim under this paragraph must be made both by mail and by phone or in person; [PL 2023, c. 250, §2 (NEW).]

D. The inmate has a verified security classification level of "medium" or "minimum" and scores "moderate" or "less" on a validated risk assessment tool as defined by the Department of Corrections; [PL 2015, c. 335, §19 (AMD).]

E. The inmate serves a minimum of 1/3 of the term of imprisonment, or, in the case of a split sentence, a minimum of 1/3 of the unsuspended portion, prior to participating in a community confinement monitoring program. In calculating the amount of time served, deductions earned under Title 17-A, section 2302, subsection 1; section 2305; section 2307; section 2308; section 2309; section 2310; or section 2311 and time reductions earned for charitable or public works projects under section 1606 must be counted; and [PL 2019, c. 113, Pt. C, §81 (AMD).]

F. The inmate agrees to abide by the conditions of release pursuant to this section and any additional conditions imposed by the sheriff or jail administrator. [PL 2009, c. 391, §6 (NEW).]
[PL 2023, c. 250, §2 (AMD).]

3. Participation requirements. The following requirements of this subsection apply to inmates participating in a community confinement monitoring program.

A. Each inmate assigned to community confinement pursuant to this section shall participate in a structured program of work, education or treatment. Participation in a community confinement monitoring program may not be solely for the purpose of living at home. [PL 2009, c. 391, §6 (NEW).]

B. At a minimum, the inmate shall report in person at least once per week to a community confinement monitor, even if being electronically monitored. [PL 2009, c. 391, §6 (NEW).]

C. The jail administrator, or a designee, shall restrict in advance any travel or movement limiting the inmate's travel to specific times and places directly related to approved employment, formal education, job search, public service work, treatment or other specific purposes. [PL 2009, c. 391, §6 (NEW).]

D. The inmate shall agree to searches of the inmate's person, residence, electronic monitoring equipment, vehicle, papers and effects and any property under the inmate's control, without a warrant and without probable cause, for items prohibited by law or by condition of participation in the program or otherwise subject to seizure or inspection upon the request of the jail administrator, a community confinement monitor or any law enforcement officer without prior notice. The sheriff or jail administrator may prohibit the inmate from residing with anyone who does not consent to a search or inspection of the residence to the extent necessary to search or inspect the inmate's person, residence, electronic equipment, papers and effects. [PL 2009, c. 391, §6 (NEW).]

E. The inmate may not use alcohol or illegal drugs or other illegal substances or misuse any other legal substance. [RR 2017, c. 2, §13 (COR).]

F. The inmate shall submit to urinalysis, breath testing or other chemical tests without probable cause at the request of the jail administrator or a community confinement monitor. [PL 2009, c. 391, §6 (NEW).]

G. If stopped or arrested by a law enforcement officer, the inmate shall notify that officer of the inmate's participation in a community confinement monitoring program. Within one hour of having been stopped or arrested, the inmate shall notify the jail administrator or a community confinement monitor. [PL 2009, c. 391, §6 (NEW).]

H. The inmate may not violate state or federal criminal law or any conditions of the inmate's release. [PL 2009, c. 391, §6 (NEW).]

I. As a condition of participation of an inmate in a community confinement monitoring program, the sheriff may, based upon an inmate's ability to pay, require the inmate to pay a fee including an electronic monitoring fee, if applicable, a substance testing fee, if applicable, or both. The fee charged may include the costs associated with a community confinement program for people who do not have the financial resources to pay the fees. [PL 2009, c. 391, §6 (NEW).]

J. The inmate shall sign a statement verifying that the inmate understands and agrees to all of the conditions of release and participation in a community confinement monitoring program. [PL 2009, c. 391, §6 (NEW).]

[RR 2017, c. 2, §13 (COR).]

4. Termination of the privilege. The sheriff, jail administrator or a community confinement monitor may terminate an inmate's participation in a community confinement monitoring program at any time and return the inmate to the custody of the county jail for any violation of the conditions of the inmate's release or upon the loss of an appropriate residence on the part of the inmate.

[PL 2009, c. 391, §6 (NEW).]

5. Crimes. The following penalties apply to violations of this section.

A. An inmate is guilty of the crime of violating a condition of release from the community confinement monitoring program if the inmate intentionally or knowingly violates a condition of release. Violation of this paragraph is a Class D crime. [PL 2011, c. 464, §28 (RPR).]

B. An inmate is guilty of the crime of escape from the community confinement program as provided pursuant to Title 17-A, section 755, subsection 1-E. [PL 2011, c. 464, §28 (RPR).]

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6. Minimum standards supervision of inmates in the community confinement monitoring program. The Department of Corrections shall establish minimum policy standards for the monitoring of inmates in the community confinement monitoring program.

[PL 2015, c. 335, §20 (AMD).]

7. Program funding. Funds collected pursuant to this section must be forwarded to an account designated by the Department of Corrections for the purpose of supporting pretrial, diversion or reentry activities. Community confinement monitoring program funds must be accounted for by the county through the normal budget process.

[PL 2015, c. 335, §20 (AMD).]

8. Terminally ill or incapacitated inmate. The sheriff may grant the privilege of participation in a community confinement monitoring program to an inmate who does not meet the requirements of subsection 2, paragraphs C and E if the jail's treating physician has determined that the inmate has a terminal or severely incapacitating medical condition and that care outside the jail is medically appropriate. Except as set out in this subsection, the inmate shall live in a hospital or other appropriate care facility, such as a nursing facility, residential care facility or facility that is a licensed hospice program pursuant to Title 22, section 8622 approved by the sheriff. As approved by the sheriff, the

inmate may receive hospice services from an entity licensed pursuant to Title 22, chapter 1681, subchapter 1 or other care services and, subject to approval by the sheriff, may live at home while receiving these services. The sheriff may exempt an inmate participating in community confinement monitoring pursuant to this subsection from any requirements under subsection 3 that the sheriff determines to be inapplicable. The inmate shall provide any information pertaining to the inmate's medical condition or care that is requested by the sheriff at any time while the inmate is in the community confinement monitoring program. If the sheriff determines that the inmate has failed to fully comply with a request, or if at any time the jail's treating physician determines that the inmate does not have a terminal or severely incapacitating medical condition or that care outside the jail is not medically appropriate, the sheriff shall terminate the inmate's participation in the community confinement monitoring program. Except as set out in this subsection, all other provisions of this section apply to community confinement monitoring pursuant to this subsection.

[PL 2009, c. 391, §6 (NEW).]

9. Effective date. This section is effective January 1, 2010.

[PL 2009, c. 391, §6 (NEW).]

SECTION HISTORY

PL 2009, c. 391, §6 (NEW). PL 2011, c. 464, §28 (AMD). PL 2015, c. 335, §§18-20 (AMD). RR 2017, c. 2, §13 (COR). PL 2017, c. 407, Pt. A, §119 (AMD). PL 2019, c. 113, Pt. C, §81 (AMD). PL 2023, c. 250, §§1, 2 (AMD).

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