

§3031. Rights

Any person residing in a correctional or detention facility has a right to: [PL 1991, c. 314, §34 (AMD).]

1. Food. Nutritious food in adequate quantities; [PL 1983, c. 459, §6 (NEW).]

2. Medical care. Adequate professional medical care and adequate professional mental health care, which do not include medical treatment or mental health treatment requested by the client that the facility's treating physician or treating psychiatrist or psychologist determines unnecessary. The commissioner may establish medical and dental fees not to exceed \$5 for the medical and dental services that are provided pursuant to this subsection and a fee not to exceed \$5 for prescriptions, medication or prosthetic devices. Except as provided in paragraph A, every client may be charged a medical or dental services fee for each medical or dental visit, prescription, medication or prosthetic device. The facility shall collect the fee. All money received by the department under this subsection is retained by the facility to offset the cost of medical and dental services, prescriptions, medication and prosthetic devices.

A. A client is exempt from payment of medical and dental services fees and fees for prescriptions, medication or prosthetic devices when the client:

- (1) Receives treatment initiated by facility staff;
- (2) Is a juvenile;
- (3) Is pregnant;
- (4) Is a person with a serious mental illness or developmental disability. For the purposes of this paragraph, "a person with a serious mental illness or developmental disability" means a client who, as a result of a mental disorder or developmental disability, exhibits emotional or behavioral functioning that is so impaired as to interfere substantially with the client's capacity to remain in the general prison population without supportive treatment or services of a long-term or indefinite duration, as determined by the facility's psychiatrist or psychologist. The exemption under this paragraph applies only to supportive treatment or services being provided to improve the client's emotional or behavioral functioning;
- (5) Is an inpatient at a state-funded mental health facility or is a resident at a state-funded facility for individuals with adult developmental disabilities;
- (6) Is undergoing follow-up treatment;
- (7) Receives emergency treatment as determined by the facility's medical or dental staff; or
- (8) Has less than \$15 in the client's facility account and did not receive additional money from any source for 6 months following the medical or dental service or provision of the prescription, medication or prosthetic device. [PL 2015, c. 291, §5 (AMD).]

A-1. A client who is indigent is exempt from fees charged for requesting or obtaining records of medical, dental or mental health care provided to the client pursuant to this subsection. [PL 2021, c. 359, §2 (NEW).]

B. Notwithstanding paragraphs A and A-1, the State may bring a civil action in a court of competent jurisdiction to recover the cost of medical, dental, psychiatric or psychological expenses incurred by the State on behalf of a client incarcerated in a facility. The following assets are not subject to judgment under this paragraph:

- (1) Joint ownership, if any, that the client may have in real property;

(2) Joint ownership, if any, that the client may have in any assets, earnings or other sources of income; and

(3) The income, assets, earnings or other property, both real and personal, owned by the client's spouse or family; [PL 2021, c. 359, §3 (AMD).]

C. [PL 1995, c. 201, §2 (RP).]
[PL 2021, c. 359, §§2, 3 (AMD).]

3. Living conditions. An acceptable level of sanitation, ventilation and light;
[PL 1983, c. 459, §6 (NEW).]

4. Sleeping space. A reasonable amount of space per person in any sleeping area;
[PL 1983, c. 459, §6 (NEW).]

5. Exercise and recreation. A reasonable opportunity for physical exercise;
[PL 1989, c. 127, §5 (AMD).]

6. Protection from abuse. Protection against any physical or psychological abuse;
[PL 1983, c. 459, §6 (NEW).]

7. Area for personal effects. A reasonably secure area for the maintenance of permitted personal effects;
[PL 2019, c. 139, §2 (AMD).]

8. Visitation. A reasonable opportunity to visit with relatives and friends, in accordance with departmental policies and institutional procedures, except that the department may restrict or prohibit visits when the restriction or prohibition is necessary for the security of the institution. Departmental policies and institutional procedures must provide to a person in a correctional facility or detention facility opportunities and conditions for visits with the child of the person that provide time together in settings that allow for as positive a parent-child interaction as practicably can be achieved while protecting the emotional and physical well-being of the child, as long as such visits are not prohibited by court order, prohibited by a department policy due to the child's being a victim of the person, contrary to the wishes of the child's other parent or guardian or inconsistent with the security of the institution;
[PL 2021, c. 620, §6 (AMD).]

9. Menstrual products. Comprehensive access to menstrual products, including, but not limited to, sanitary pads and tampons, provided and available at all times and without inconvenience or charge to a person who menstruates who resides in a correctional or detention facility; and
[PL 2021, c. 263, §4 (AMD).]

10. Gender affirmation. Have the person's consistently held gender identity respected and acknowledged, irrespective of anatomy or physique. Housing placements and search practices must be consistent with the person's consistently held gender identity except when such placement or search would present significant management or security problems to the correctional or detention facility or threaten the health and safety of the person. A person must have access to commissary items, clothing, personal property, programming and educational materials that are consistent with the person's consistently held gender identity. Correctional or detention facility staff shall address a person in a manner that is consistent with the person's consistently held gender identity.
[PL 2021, c. 263, §5 (NEW).]

SECTION HISTORY

PL 1983, c. 459, §6 (NEW). PL 1983, c. 581, §§16,59 (AMD). PL 1985, c. 752, §3 (AMD). PL 1987, c. 276 (AMD). PL 1989, c. 127, §5 (AMD). PL 1991, c. 314, §§34,35 (AMD). PL 1995, c. 201, §2 (AMD). PL 1995, c. 462, §D6 (AMD). PL 1999, c. 583, §8 (AMD). PL 2001, c. 458, §4 (AMD). PL 2011, c. 542, Pt. A, §59 (AMD). PL 2015, c. 291, §5 (AMD). PL 2019, c. 139,

§§2, 3 (AMD). PL 2021, c. 263, §§3-5 (AMD). PL 2021, c. 359, §§2, 3 (AMD). PL 2021, c. 620, §6 (AMD).

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