

**Annual List of Rule-Making Activity**  
**Rules Adopted January 1, 2016 to December 31, 2016**  
*Prepared by the Secretary of State, pursuant to 5 MRS, §8053-A, sub-§5*

**Agency name:** Department of Corrections  
**Umbrella-Unit:** 03-201  
**Statutory authority:** 34-A MRS §§ 1402, 1403, 3032  
**Chapter number/title:** Ch. 12, Policy and Procedures Manual – Juvenile:  
**Subsection 15.3**, Resident Discipline System  
**Filing number:** 2016-009  
**Effective date:** 2/1/2016  
**Type of rule:** Routine Technical  
**Emergency rule:** No

**Principal reason or purpose for rule:**

*(See Basis Statement)*

**Basis statement:**

The Maine Department of Corrections repeals the existing rule, Ch. 12 Subsection 15.3, “Resident Discipline”, pursuant to 34-A MRSA §§ 1402, 1403, and 3032. The revisions include removing the word “punishment” and replacing that with the word “consequence”. Also, the DOC is eliminating room restriction as a punishment based on current nationally recognized practices.

**Fiscal impact of rule:**

None.

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**Agency name:** Department of Corrections  
**Umbrella-Unit:** 03-201  
**Statutory authority:** 34-A MRS §3035  
**Chapter number/title:** Ch. 10, Policy and Procedures Manual – Adult:  
**Subsection 27.3**, Community Transition Program  
**Filing number:** 2016-016  
**Effective date:** 2/3/2016  
**Type of rule:** Routine Technical  
**Emergency rule:** No

**Principal reason or purpose for rule:**

The Department of Corrections adopted by an emergency rule on November 12, 2015 a revision to C. 10 Subsection 27.3, “Community Transition Program”, pursuant to 34-A MRS §3035 that allowed the Commissioner to permit prisoners to participate in a special work release project for a specified period of time. This emergency rule assists employers in the State of Maine, especially seasonal employers who are having difficulties in finding employees, to have an additional pool of potential employees, while at the same time providing additional and more extensive work opportunities for prisoners to assist with community reintegration. These revisions ensure a viable work force for Maine employers who otherwise might be unable to sustain their businesses.

Also, an emergency rule on the Community Transition Program was adopted on October 21, 2015 extending the eligibility for community transition programs from one year to two years prior to a prisoner’s current release date and changing the requirement of requiring a prisoner to serve 120 days in a Department facility to 30 days. This filing adopts through the regular rule making process the provisions of the 10/21/15 and the 11/12/15 emergency rules along with other revisions.

**Basis statement:**

The revised rule would make changes that include: aligning the application, approval and review process for the Community Transition Program (work release, education release or public service release) with the Ch. 10 Subsection 27.4, “Furlough Pass/Furlough Leave Program”, that was recently adopted on November 9, 2015; changing the 30 day requirement in the emergency rule to refer to time served in the facility from which the prisoner is allowed to participate in the program; adopting the two year eligibility requirement; requiring sex offenders to complete sex offender treatment to be considered for the program; prohibiting domestic violence offenders and sex offenders with minor victims from participating in the program if contact with his or her victim is likely, unless granted a waiver by the Commissioner; provisions for monitoring participation; and including an appeal process.

**Fiscal impact of rule:**

None.

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**Agency name:** Department of Corrections  
**Umbrella-Unit:** 03-201  
**Statutory authority:** 34-A MRS §§ 1402, 1403, 3032  
**Chapter number/title:** Ch. 10, Policy and Procedures Manual – Adult:  
**Subsection 20.1**, Prisoner Discipline  
**Filing number:** 2016-026  
**Effective date:** 2/29/2016  
**Type of rule:** Routine Technical  
**Emergency rule:** No

**Principal reason or purpose for rule:**  
*(See Basis Statement)*

**Basis statement:**

The Maine Department of Corrections has adopted a new rule to repeal and replace the existing rule governing Prisoner Discipline pursuant to 34-A MRS §3032. The adopted rule seeks to clarify the discipline process; eliminate some violations; add clarifying language to existing violations; add new violations; incorporate an option for the suspension of dispositions based on a contract for positive behavior; allow other supervisory security staff to be involved in the disciplinary process for efficiency of operations; address emerging issues such as social networking; and other, minor changes.

It is anticipated that disciplinary hearing process will flow more efficiently because of the changes in the new rule that adds other supervisory security staff that can be involved in the disciplinary process; stipulates an earlier timeframe for the prisoner to notify staff of witnesses that he or she would like to call; states that only arguments raised during the hearing can be appealed are some of the major revisions. It is also anticipated that the clarifications to some of the violations will assist staff and prisoners in better understanding prohibited behavior. Some violations were eliminated and some were added to address changing issues in the Department.

**Fiscal impact of rule:**  
None.

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**Agency name:** Department of Corrections  
**Umbrella-Unit:** 03-201  
**Statutory authority:** 34-A MRS §3039  
**Chapter number/title:** **Ch. 10**, Policy and Procedure Manual – Adult; and **Ch. 12**, Policy and Procedure Manual – Juvenile: Subsection 2.12 (*from both Chapters*), Prisoner and Resident Accounts, *are being combined, amended and relocated to Ch. 11 (New)*, Policy and Procedure Manual – Adult and Juvenile  
**Filing number:** 2016-169  
**Effective date:** 10/12/2016  
**Type of rule:** Routine Technical  
**Emergency rule:** No

**Principal reason or purpose for rule:**

The Maine Department of Corrections is repealing the existing rule, Ch. 10 and 12 Subsection 2.12, “Prisoner and Resident Accounts”, and replacing them with new Ch. 11 Subsection 2.12, “Prisoner and Resident Accounts”. The reason this rule is being replaced is to align the rule with federal statutes requiring a person to open a bank account in person and not allowing funds from Veterans Administration benefit checks to be used toward non-elective withdrawals. Other changes include stipulating the amount of time check(s) must be held prior to posting the check(s) to a prisoner’s or resident’s account; clarifying the disposition of a prisoner’s or resident’s account when he or she is released, transferred or dies; incorporating Department Policy 25.4, “Prisoner Savings Plan” into Policy 2.12, “Prisoner and Resident Accounts”, and other updates to reflect generally accepted accounting principles.

**Basis statement:**

Revisions make this rule consistent with federal statutes that do not allow a person to open a bank account for another person and limit what Veterans Administration benefit checks may be used for as obligations. Other changes include stipulating the amount of time check(s) must be held prior to posting the check(s) to a prisoner’s or resident’s account; clarifying the disposition of a prisoner’s or resident’s account when he or she is released, transferred or dies; incorporating Department Policy 25.4, “Prisoner Savings Plan” into Policy 2.12, “Prisoner and Resident Accounts”, and other updates to reflect generally accepted accounting principles.

**Fiscal impact of rule:**

None.

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**Agency name:** Department of Corrections  
**Umbrella-Unit:** 03-201  
**Statutory authority:** 34-A MRS §§ 3101, 3102, 3103, 3104  
**Chapter number/title:** Ch. 11, Policy and Procedure Manual – Adult and Juvenile:  
**Subsection 18.19.1** (*New*), Use of Mechanical Restraints  
on a Pregnant Prisoner or Pregnant Resident  
**Filing number:** 2016-170  
**Effective date:** 10/12/2016  
**Type of rule:** Routine Technical  
**Emergency rule:** No

**Principal reason or purpose for rule:**  
*(See Basis Statement)*

**Basis statement:**

The Maine Department of Corrections is adopting a new rule, Ch. 11 Subsection 18.19.1, “Use of Mechanical Restraints on a Pregnant Prisoner or Pregnant Resident”.

This rule is being adopted because the Maine State Legislature passed a law, Title 34-A MRS Sections 3101, 3102, 3103 and 3104, that requires that the Maine Department of Corrections to adopt a rule restricting the use of mechanical restraints on a pregnant prisoner or juvenile who are in the custody of the Maine Department of Corrections and restricts an officer from being in the hospital room when women are giving birth unless there are extraordinary circumstances, and requires that female prisoners and residents be told about the law.

**Fiscal impact of rule:**  
None.