Be it enacted by the People of the State of Maine as follows:

Sec. 1. 5 MRSA §12004-G, sub-§6-D is enacted to read:

6-D.

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| --- | --- | --- | --- | --- | --- | --- |
| Corrections |  | Positive Reentry Program Committee |  | Legislative Per Diem |  | 34‑A MRSA §5822 |

Sec. 2. 34-A MRSA §3036-B is enacted to read:

§3036-B. Assisted reentry

A person at a correctional facility may be transferred to a halfway house, sober living house, transitional house or assisted living facility or transferred to participate in any approved rehabilitation and reentry program in order to assist in reentry of a person who does not have a stable place to which to be released. A person who shows through methods including but not limited to pre-release inspections and background checks of inhabitants of a dwelling where that person will live that that person has a stable place to which that person may be released must be approved for release to that place.

Sec. 3. 34-A MRSA c. 5, sub-c. 6 is enacted to read:

SUBCHAPTER 6

positive reentry program for certain maine criminal code prisoners

§5821. Applicability

This subchapter applies to persons in the custody of the Department of Corrections.

§5822. Positive Reentry Program; reentry granted by the committee

The Positive Reentry Program, referred to in this subchapter as "the program," is established to facilitate a person's positive reentry into a community.

The Positive Reentry Program Committee, established in Title 5, section 12004‑G, subsection 6‑D and referred to in this subchapter as "the committee," is established to administer the program. The committee consists of a licensed alcohol and drug counselor as defined in Title 32, section 6203‑A, subsection 9; a licensed mental health professional as defined in Title 22, section 4002, subsection 6‑A; a case manager who works with health and human services agencies; a physician licensed under Title 32, chapter 36 or 48; and a director of security employed by the Department of Corrections. The Governor shall appoint the members of the committee, who must be citizens and residents of this State. The committee members, except for the director of security, may not be employed by the Department of Corrections. Members of the committee serve terms of 4 years plus the time period until their successors have been appointed and qualified. Members of the committee serve during the pleasure of the Governor. A vacancy on the committee must be filled for the unexpired term in the same manner in which an appointment is made. Any 3 members of the committee constitute a quorum for the exercise of all powers of the committee. The committee is not part of the board. The committee oversees the program only.

The committee may grant a person acceptance into the program from a correctional facility after that person serves the portion of that person's sentence specified in section 5823, subsection 1, paragraph A or after the person's compliance with conditions provided in this subchapter applicable to the sentence being served. The committee may terminate a person from the program if any condition of the program is violated.

1. Duration and conditions of the program. If the committee grants a person acceptance into the program, upon release, the person must serve the unexpired portion of the person's sentence under conditions of custody established pursuant to subsection 2, less deductions for good time and meritorious good time, unless otherwise indicated by the committee. If the committee grants acceptance for release, the person must serve the unexpired portion of that person's sentence on supervision. The term of the sentence does not change, only the manner in which the sentence is served, protecting the Governor's exclusive power of commutation.

2. Custody and control. While in the program, a person is under the custody of the warden or chief administrative officer of the correctional facility from which the person was released but under the immediate supervision of and subject to the rules of the department and any special conditions of the program imposed by the committee.

§5823. Participation of prisoners; eligibility; process

1. General provisions regarding eligibility. A person convicted of one or more crimes who is incarcerated pursuant to a sentence imposed on or after May 1, 1976 and who received a definite sentence or aggregate sentence is eligible for participation in the program upon application if:

A. The person's sentence was imprisonment for life or for any term of not less than 25 years and the person has served at least 20 years of the sentence or the person's sentence was imprisonment for a term of at least one year to 25 years and the person served not less than 1/2 of the aggregate sentence or 1/2 of the most recent sentence imposed by the court, whichever is greater;

B. Based on all available information, including reports that the committee may require, the committee determines that there is a reasonable probability that the person will live and remain at liberty without violating the law; and

C. The committee determines that the participation of the person in the program is not incompatible with the welfare of society.

2. Application hearing. The committee shall hold a hearing, which must be video recorded, to review an application for participation in the program. The committee shall use its administrative release guidelines and any other information it determines relevant in its review. A person seeking participation in the program may request to be represented by legal counsel.

3. Participation in the program granted. If after a hearing under subsection 2 the committee grants a person participation in the program, the committee shall impose any conditions it determines appropriate to mitigate the risk of the person's again violating the law.

4. Participation in the program denied. If after a hearing under subsection 2 the committee denies a person participation in the program, the committee shall inform the person of the reason why participation in the program was denied and what the person needs to accomplish to be considered again for participation in the program. A person denied participation in the program may appeal the denial within 90 days. A subsequent review date must be set for 2 years from the date of the denial.

§5824. Administrative release guidelines

The committee shall develop administrative release guidelines using evidence-based risk assessment criteria for use by the committee in evaluating applications for participation in the program. The administrative release guidelines must be used to provide the committee with consistent and comprehensive information relevant to risk factors for participants. The guidelines must include a matrix of advisory release decision recommendations for different risk levels. The following provisions govern administrative release guidelines.

1. Factors. In developing the administrative release guidelines, the committee shall consider factors including but not limited to:

A. The actuarial risk of reoffending. This factor is the central factor for the committee in making its decision related to the timing and conditions of release to the program. Risk must be assessed using fact-based actuarial risk assessment tools and professional judgment;

B. The person's assessed criminogenic need level;

C. The person's program and treatment participation and progress while in custody;

D. The person's conduct in the correctional facility;

E. The adequacy of the participant's reentry plan;

F. Whether the person while serving the person's sentence has threatened or harassed the victim or the victim's family or has caused the victim or the victim's family to be threatened or harassed;

G. Aggravating or mitigating factors from the person's criminal case;

H. The testimony or written statement of a prospective program sponsor, employer or other person who is available to assist the person if released to the program;

I. Whether the person has previously absconded or escaped while on conditional release, including community supervision; and

J. Whether the person completed or worked toward completing a high school diploma, a general equivalency degree or a college degree during the period of incarceration.

The committee may not use the administrative release guidelines for the consideration of participation in the program for a person who is serving a sentence for committing a crime under Title 17‑A, chapter 11 or 12. The committee shall develop specific sex offender administrative release guidelines to be used to evaluate reentry applications for these cases.

2. Structured decision making. The committee shall adopt standards for evaluating outcomes of its program participation decisions and shall conduct its business in a manner that is accessible to victims, offenders, other criminal justice professionals and the community.

3. Coordination of risk and needs. The committee shall coordinate supervision conditions and services under the program with assessed risk and need levels as determined in subsection 1.

4. Risk assessment scale. The committee shall develop a risk assessment scale that includes evidence-based criteria for reducing the risk of recidivism. The committee shall validate the risk assessment scale at least every 5 years or more frequently if the predictive accuracy as determined by data collection and analysis by the committee falls below an acceptable level.

5. Forms. The committee shall develop forms consistent with an effort to record information required under this section to capture the rationale for the committee's decision in a reentry program case. The department shall print the forms.

6. Training. The committee shall seek regular training for its members to ensure that it is using best practices in program application evaluation and applying them effectively in carrying out its duties.

§5825. Administrative violation and termination guidelines

The committee shall develop administrative violation and termination guidelines that must be used to evaluate complaints filed for violation of conditions of the program or termination of a person's participation in the program. The committee shall develop administrative violation and termination guidelines using fact-based risk assessment criteria. The following provisions govern administrative violation and termination guidelines.

1. Factors. In developing administrative violation and termination guidelines, the committee shall consider factors including but not limited to:

A. A determination by the committee that a program participant committed a new crime while in the program;

B. The participant's actuarial risk of reoffending;

C. The seriousness of a violation of a condition of the program, if applicable;

D. The participant's frequency of violations of conditions while in the program;

E. The participant's efforts to comply with a previous corrective action plan or other remediation required by the committee or by the department;

F. The imposition of intermediate sanctions by the department in response to violations of conditions of the program that may form the basis of the complaint filed for termination; and

G. Whether modification of program conditions is consistent with public safety and more appropriate than termination.

2. Determination of violation of conditions of the program or termination of participation in the program. In evaluating complaints filed for violation of the conditions of the program or termination of a person's participation in the program, the committee may not terminate participation in the program unless the committee determines on the record that appropriate intermediate sanctions have been used and have been ineffective or that the modification of conditions of the program or of the intermediate sanctions is not appropriate or consistent with public safety and the welfare of society.

§5826. Violations of the program

1. Arrest and detention for violation. The department or an authorized officer of the law may arrest and charge a program participant with a violation of the program and take the participant into custody and detain the participant pending the issuance of a program violation warrant. The detention may not extend beyond the next business day and if a warrant is not issued in that time, the participant must be released from arrest and detention. A program participant arrested and detained does not have a right of action against the department or arresting officer or any other person because of that arrest and detention.

2. Issuance of warrant for violation; committee action. If a program participant violates a condition of the program or violates the law, a warrant may be issued for the participant's arrest. An employee of the department, or any other law enforcement officer within the State authorized to make arrests, may arrest the program participant on the warrant and return the participant to the correctional facility from which the participant came. At its next meeting at that correctional facility, the committee shall hold a hearing. The participant is entitled to appear and be heard. If the committee, after hearing, finds that the participant has violated the conditions of the program or the law, the committee may terminate the participant's enrollment in the program and set the amount of the unexpired portion of the sentence the participant must serve before the participant is again eligible to apply to the program before the committee and remand the participant to the correctional facility from which the participant came.

3. Forfeits deductions. Upon termination of a person's participation in the program by the committee under subsection 2, the person forfeits any deductions for good time and meritorious good time earned while participating in the program.

4. May earn deductions. While a person is serving the unexpired portion of that person's sentence after the person's participation in the program has been terminated under subsection 2, the person may earn deductions for good time and meritorious good time.

5. Tolling of sentence. If a warrant is issued under this section for the arrest of a program participant, the running of the participant's sentence is tolled and remains tolled until the participant is returned to the correctional facility from which the participant came. Tolling of the running of the sentence must include any time served prior to such return after conviction for a crime committed while participating in the program. In the event of the withdrawal of the warrant, or in the event that the committee at the hearing on the alleged violation finds that the participant did not violate the conditions of the program or any law, the participant must be credited with the time lost by the tolling of the running of the participant's sentence.

§5827. Sentence for violation of law by program participant

A program participant who violates the law while in the program, if the violation is punishable by imprisonment for one year or more, and who is sentenced to the custody of the department shall serve the 2nd sentence beginning on the date of termination of the first sentence.

§5828. Discharge from the program

A program participant who faithfully satisfies all the conditions of the program and completes the original sentence is entitled to a certificate of discharge to be issued by the warden or chief administrative officer of the correctional facility to which the participant was committed.

§5829. Collection and analysis of data

1. Outcome data and analysis. The committee shall develop and implement a process to collect and analyze data related to the basis for the outcomes of the committee's determinations or decisions for granting, terminating or denying participation in the program or for violations of the program.

2. Recidivism data. If the committee allows a person to participate in the program, the committee also shall collect data related to whether the person has previously violated the law while on a supervised release, the type of reentry program provided as part of the person's release plan and whether the person violates the law while on supervised release.

3. Record of conformance with or departure from guidelines. The committee shall determine whether a decision granting, terminating or denying participation in the program or finding a violation of the program conformed with or departed from the administrative release and violation and termination guidelines under sections 5824 and 5825.

4. Reporting. The committee shall provide the data collected pursuant to this section to the department for analysis. Using the data, the department shall assist the committee in identifying specific factors that are necessary to the committee's program participation decision-making process and shall assist the committee in securing training to facilitate the committee's future decision making.

5. Reporting to the Legislature. By January 15, 2018, the committee shall report to the joint standing committee of the Legislature having jurisdiction over corrections matters regarding the implementation of this subchapter. Thereafter, annually by January 15th, the committee shall update the report and make a presentation to the joint standing committee of the Legislature having jurisdiction over corrections matters regarding the operations of the committee pursuant to this subchapter. Data may be reported only in the aggregate.

6. Cooperation. The department, the committee and other criminal justice agencies shall cooperate in implementing this subchapter.

SUMMARY

This initiated bill establishes the Positive Reentry Program for persons convicted of a crime who are incarcerated pursuant to a sentence imposed on or after May 1, 1976. A person who has completed a specified portion of that person's sentence may apply to the Positive Reentry Program Committee for acceptance into the program. The committee is directed to develop administrative release guidelines using evidence-based risk assessment criteria for use by the committee in evaluating applications for the program. A person who is accepted into the program, upon release, serves the unexpired portion of the person's sentence under the supervision of the Department of Corrections and is subject to any special conditions of the program imposed by the committee. The committee may terminate a person's participation in the program if that person violates the law or a condition of the program. The committee is directed to develop administrative violation and termination guidelines using fact-based risk assessment criteria that must be used to evaluate complaints filed for violation or termination.

The initiated bill provides that a person at a correctional facility may be transferred to a halfway house, sober living house, transitional house or assisted living facility or transferred to participate in any approved rehabilitation and reentry program in order to assist in reentry of a person who does not have a stable place to which to be released. A person who shows through methods including but not limited to pre-release inspections and background checks of inhabitants of a dwelling where that person will live that that person has a stable place to which that person may be released must be approved for release to that place.