

Maine

Overall Grade for Maine

Total Grade

13
/100

Letter Grade

F

Program Grades

Supervised Community Confinement

Total Grade

13/100

Letter Grade

F

Supervised Community Confinement

Total Grade

13 /100

Letter Grade

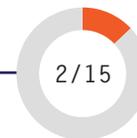
F

Eligibility Criteria



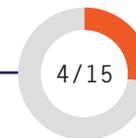
- 5/10** Clearly set out with understandable and measurable standards.
- 0/10 UTD*** Generous or not unduly restrictive.
- 0/10 UTD** No categorical exclusions/everyone is eligible for consideration.
 - × **Extra credit:** Terminal illness time-left-to-live provisions are reasonable and sufficiently long to permit the completion of the review and decision-making processes. **0**

Engaging the Process



- 0/5** Clinical and other staff can identify potentially eligible individuals and initiate the process.
- 2/5** Incarcerated people, their loved ones, and advocates can initiate the process.
- 0/5** Corrections staff have an affirmative duty to identify incarcerated people eligible for compassionate release and take the steps necessary to begin the process.

Agency Policy Design



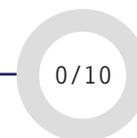
- 2/5** Agency rules exist for all stages of identification, initiation, assessment, and decision-making.
- 0/5** Agency rules are consistent with and/or complement the statute, are up to date, and internally consistent.
- 2/5** Rules provide clear guidance to reviewers and decision-makers about steps to take and standards to apply.

Procedures



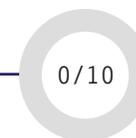
- 2/5** Documentation and assessment are straightforward, lacking multiple or redundant reviews and authorizations.
- 0/5** Time frames for completing review and/or decision-making exist and are designed to keep the process moving along.
 - × **Extra credit:** Expedited time frames exist for terminal cases. **0**

Release Planning Support



- 0/5** Agencies provide comprehensive release planning.
 - × **Extra credit:** Release planning includes helping the incarcerated person apply for benefits prior to release, including housing, Medicaid, Medicare, and/or veterans benefits. **0**
- 0/5** Release planning begins early in the process.

Data Collection and Public Reporting



- 0/5** Agencies are obliged to gather, compile, and report release data to legislature.
- 0/5** Reporting is made available to the public via annual reports or other means.

0/10

Right to Counsel and Appeals

0/5 Program allows counsel to represent people before decision-maker (i.e., parole board, commissioner, or court).

✘ **Extra credit:** Denials are appealable. **0**

0/5 Individuals have the right to reapply should conditions change.

✘ **Extra credit:** Revocations are not used to return people to prison because their condition improves or goes into remission or because the individual outlives the prognosis. **0**

* UTD stands for "Unable to Determine" and is graded zero. This is when there are no rules, guidelines, regulations, or other authority that FAMM could find addressing the graded category. For example, if there are no published provisions for release planning or telling an agency how it is to evaluate an incarcerated person's eligibility, that results in a zero UTD grade.

The Numbers

Maine does not publish data on Supervised Community Confinement for people with terminal or severely incapacitating conditions. The Department of Corrections did not respond to FAMM's request for the information about use of the program in 2019 and 2020.

High and Low Marks

HIGH MARK

- There is little on which to commend Maine's Supervised Community Confinement program, except perhaps, with respect to **eligibility criteria**, given that people who are terminally ill may apply and appear not to have to demonstrate a prognosis of time left to live. End-of-life predictions are inexact, and short time frames often prevent terminally ill individuals from consideration until it is too late.

LOW MARKS

- **Eligibility criteria** are undefined. While people with "severely debilitating" conditions may apply, the program does not explain that term.
- It appears that only a terminally ill or severely debilitated individual can **begin the application process**, because there are no provisions for loved ones, counsel, or even Department of Corrections' staff to do so on the individual's behalf.
- **Agency policy design** is among the worst FAMM has evaluated. For example, the statute and the regulations implementing it conflict about eligibility and exclusions. The statute says an individual must be classified as "minimum security" to qualify for Supervised Community Confinement, but the regulation appears to waive that requirement for terminally or severely incapacitated people. Furthermore, by statute, each facility must have a process in place to allow individuals to apply for the program, but Department rules do not provide guidance on establishing such a process, and FAMM could not locate any process descriptions.

LOW MARKS (CONTINUED)

- **Procedures** also earned failing grades. There is little in the way of guidance for reviewers and decision-makers about steps to take and standards to apply at any stage. The Medical Director determines whether the individual meets the medical criteria, but it is unclear when or, for that matter, how that determination happens. Before the formal assessment can begin, the facility's Community Program Coordinator makes an initial determination without which an applicant cannot advance. No rules, standards, or steps govern that initial determination. If the individual clears the initial stage, a unit management team makes an assessment in light of a variety of factors, including criminal history, adjustment, risk assessment, mental stability, etc. None have to do with the terminal or severely incapacitating condition. The Commissioner of Corrections makes the final determination but, again, without standards or any discernable guidance.
- Individuals may not **appeal** denials. It is not clear whether individuals may reapply following a denial should their condition change.