

§3032. Disciplinary action

The commissioner shall adopt rules describing disciplinary offenses and punishments in facilities under the general administrative supervision of the department and establishing a fair and orderly procedure for processing disciplinary complaints. The rules must conform to the following requirements. [PL 1991, c. 314, §36 (AMD).]

1. Fairness and equity. The rules shall ensure the maintenance of a high standard of fairness and equity.

[PL 1983, c. 459, §6 (NEW).]

2. Corporal punishment. Corporal punishment may not be imposed.

[PL 1983, c. 459, §6 (NEW).]

3. Segregation. The imposition of segregation at all correctional facilities, except juvenile correctional facilities, is subject to the following conditions.

A. All punishments involving segregation shall be first approved by the chief administrative officer of the correctional facility. [PL 1983, c. 459, §6 (NEW).]

B. The prisoner shall be provided with a sufficient quantity of wholesome and nutritious food. [PL 1983, c. 459, §6 (NEW).]

C. Adequate sanitary and other conditions required for the health of the prisoner shall be maintained. [PL 1983, c. 459, §6 (NEW).]

D. When segregation exceeds 24 hours, the chief administrative officer of the correctional facility shall cause the facility's physician or a member of the facility's medical staff to visit the person immediately and, at least once in each succeeding 24-hour period of confinement, to examine the person's state of health. When no physician or medical staff member is available within the facility to visit as required by this paragraph, a staff person who has received in-service training appropriate for the duties required by this section from a licensed health professional shall visit in lieu of the visit by the physician or medical staff member the person in confinement. The staff person making the visit shall immediately contact the physician or medical staff member on call if there is reasonable cause to believe the action is necessary.

(1) The chief administrative officer shall give full consideration to recommendations of the physician or medical staff member as to the person's dietary needs and the conditions of the person's confinement required to maintain that person's health.

(2) If the recommendations of the physician or medical staff member regarding a person's dietary or other health needs while in segregation are not carried out, the chief administrative officer shall immediately convey the reasons and circumstances for this decision to the commissioner for review and final disposition. [PL 1989, c. 127, §6 (AMD).]

E. If a person is held in segregation or solitary confinement for more than 5 days, the chief administrative officer shall send a report of the confinement to the commissioner, giving the reasons for the confinement. [PL 1983, c. 459, §6 (NEW).]

[PL 1999, c. 583, §9 (AMD).]

4. Withdrawal of deductions. All punishments involving deductions subject to being withdrawn must be first approved by the chief administrative officer.

[PL 2019, c. 113, Pt. C, §87 (AMD).]

5. Specific facilities. Punishment at specific correctional facilities is governed as follows.

A. Punishment at all correctional facilities, except juvenile correctional facilities, may consist of warnings, loss of privileges, restitution, monetary sanctions, labor at any lawful work, confinement to a cell, segregation or a combination of these. [PL 2005, c. 329, §7 (AMD).]

B. Punishment at juvenile correctional facilities and any detention facility may consist of warnings, restitution, labor at any lawful work and loss of privileges. [PL 1999, c. 583, §11 (AMD).] [PL 2005, c. 329, §7 (AMD).]

5-A. Restitution. The imposition of restitution at all facilities is subject to the following conditions.

A. Restitution may be imposed for the purpose of replacing or repairing property destroyed or damaged by the prisoner or juvenile while the prisoner or juvenile is at the institution. When restitution is imposed at a facility, a prisoner or a juvenile who is subject to that restitution and who receives money from any source shall pay 25% of that money to the facility where the damage occurred. The facility shall collect that money and apply it to defray the cost of replacement or repair of the items destroyed or damaged. Money received by the prisoner or juvenile and directly deposited into a telephone call account established by the department for the sole purpose of paying for use of the department's client telephone system is not subject to this paragraph, except that 25% of any money received by the prisoner or juvenile and transferred from the telephone call account to the department's general client account at the time of the prisoner's or juvenile's discharge or transfer to supervised community confinement or community reintegration status must be collected and disbursed as provided in this paragraph. [PL 2005, c. 506, §4 (AMD).]

A-1. Restitution may be imposed for the purpose of paying the cost of medical care incurred as a result of the conduct of a prisoner or juvenile while the prisoner or juvenile is at the institution. When restitution is imposed at a facility, a prisoner or a juvenile who is subject to that restitution and who receives money from any source shall pay 25% of that money to the facility where the medical care was provided. The facility shall collect that money and apply it to defray the cost of medical care. Money received by the prisoner or juvenile and directly deposited into a telephone call account established by the department for the sole purpose of paying for use of the department's client telephone system is not subject to this paragraph, except that 25% of any money received by the prisoner or juvenile and transferred from the telephone call account to the department's general client account at the time of the prisoner's or juvenile's discharge or transfer to supervised community confinement or community reintegration status must be collected and disbursed as provided in this paragraph. [PL 2005, c. 506, §5 (AMD).]

B. A prisoner or juvenile who is transferred to another facility remains liable for any restitution authorized under this chapter. The facility receiving the prisoner or juvenile shall collect the restitution and transfer it to the facility where the damage occurred or where the medical care was provided. [PL 1995, c. 197, §2 (AMD).]

B-1. A prisoner or juvenile who is discharged from the facility remains liable for any restitution authorized under this chapter. If the prisoner or juvenile is returned to the custody of the department, any facility in which the prisoner or juvenile resides shall collect the restitution and ensure that it is used to defray the costs as set out in this chapter. [PL 2003, c. 706, Pt. A, §9 (NEW).]

C. Restitution is not authorized if its imposition would create an excessive financial hardship, as determined by the department, on the dependents of the prisoner. Any payments made for the support of the dependents that are required by the Department of Health and Human Services may not be used for restitution payments. [PL 1995, c. 197, §2 (NEW); PL 2003, c. 689, Pt. B, §6 (REV).]

[PL 2005, c. 506, §§4, 5 (AMD).]

5-B. Monetary sanctions. The imposition of monetary sanctions at adult correctional facilities is subject to the following conditions.

A. When a monetary sanction is imposed at a facility, a prisoner who is subject to that monetary sanction and who receives money from any source shall pay 25% of that money to the facility

where the monetary sanction was imposed. The facility shall collect that money and apply it to defray the cost of holding disciplinary hearings. Money received by the prisoner and directly deposited into a telephone call account established by the department for the sole purpose of paying for use of the department's client telephone system is not subject to this paragraph, except that 25% of any money received by the prisoner and transferred from the telephone call account to the department's general client account at the time of the prisoner's discharge or transfer to supervised community confinement must be collected and disbursed as provided in this paragraph. [PL 2005, c. 506, §6 (AMD).]

B. A prisoner who is transferred to another facility remains liable for any monetary sanction authorized under this chapter. The facility receiving the prisoner shall collect the monetary sanction and transfer it to the facility where the monetary sanction was imposed. [PL 2005, c. 329, §8 (NEW).]

C. A prisoner who is discharged from a facility remains liable for any monetary sanction authorized under this chapter. If the prisoner is returned to the custody of the department, any facility in which the prisoner resides shall collect the monetary sanction and ensure that it is used to defray costs as set out in this chapter. [PL 2005, c. 329, §8 (NEW).]

D. A monetary sanction is not authorized if its imposition would create an excessive financial hardship, as determined by the department, on the dependents of the prisoner. Any payments made for the support of the dependents that are required by the Department of Health and Human Services may not be used for monetary sanction payments. [PL 2005, c. 329, §8 (NEW).]

[PL 2005, c. 506, §6 (AMD).]

6. Impartial hearing. If the punishment may affect the term of commitment, sentence or parole eligibility or may involve restitution, monetary sanctions, labor at any lawful work or segregation, the chief administrative officer of the facility shall, before imposing punishment, provide an impartial hearing at which the client has the following rights.

A. The client is entitled to be informed in writing of the specific nature of the alleged misconduct. [PL 1991, c. 314, §39 (AMD).]

B. The client is entitled to the right to be present at the hearing, except that the client may be prevented from attending or be removed if the client's behavior indicates that the client is in danger of self-injury or a danger to other persons or property. [PL 1991, c. 314, §39 (AMD).]

C. The client is entitled to present evidence on the client's behalf. [PL 1991, c. 314, §39 (AMD).]

D. The client is entitled to call one or more witnesses, which right may not be unreasonably withheld or restricted. [PL 1991, c. 314, §39 (AMD).]

E. The client is entitled to question any witness who testifies at the hearing, which right may not be unreasonably withheld or restricted. [PL 1991, c. 314, §39 (AMD).]

F. The client is entitled to be represented by counsel substitute as prescribed in the rules. [PL 1991, c. 314, §39 (AMD).]

G. A record must be maintained of all disciplinary complaints, hearings, proceedings and dispositions. [PL 1991, c. 314, §39 (AMD).]

H. The client is entitled to appeal the final disposition, before imposition of punishment, to the chief administrative officer of the facility. [PL 1991, c. 314, §39 (AMD).]

I. If, at any stage of the proceedings, the client is cleared of the charges in a complaint, or the complaint is withdrawn, all documentation relating to the complaint must be expunged. [PL 1991, c. 314, §39 (AMD).]

[PL 2005, c. 329, §9 (AMD).]

SECTION HISTORY

PL 1983, c. 459, §6 (NEW). PL 1983, c. 581, §§17,59 (AMD). PL 1985, c. 352, §§3-5 (AMD). PL 1987, c. 299 (AMD). PL 1989, c. 127, §6 (AMD). PL 1991, c. 314, §§36-39 (AMD). PL 1995, c. 197, §2 (AMD). PL 1997, c. 464, §11 (AMD). PL 1999, c. 401, §J4 (AMD). PL 1999, c. 583, §§9-11 (AMD). PL 2003, c. 689, §B6 (REV). PL 2003, c. 706, §A9 (AMD). PL 2005, c. 329, §§7-9 (AMD). PL 2005, c. 506, §§4-6 (AMD). PL 2019, c. 113, Pt. C, §87 (AMD).

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