The State of Maryland

Executive Department

ORDER

OF THE

GOVERNOR OF THE STATE OF MARYLAND

No. 20-11-17-03

IMPLEMENTING ALTERNATIVE CORRECTIONAL DETENTION AND SUPERVISION

WHEREAS, A state of emergency and catastrophic health emergency was proclaimed on March 5, 2020, and renewed on March 17, April 10, May 6, June 3, July 1, July 31, August 10, September 8, October 6, and October 30, 2020, to control and prevent the spread of COVID-19 within Maryland, and the state of emergency and catastrophic health emergency continues to exist;

WHEREAS, COVID-19 is a respiratory disease that can result in serious illness or death, and has been declared a pandemic by the World Health Organization;

WHEREAS, COVID-19 is caused by a novel coronavirus, not previously identified in humans, that transmits primarily and spreads easily when people are in close contact, including through respiratory droplets;

WHEREAS, COVID-19 has now spread in communities throughout Maryland, requiring broad efforts to mitigate the effects of the pandemic and protect health care resources from being overwhelmed;

WHEREAS, The currently known and available scientific evidence, best practices, and recommendations of public health experts support social distancing, which is the practice of maintaining physical separation between people, to prevent exposures to, transmission of, and the spread of COVID-19;

WHEREAS, Because of inmates' close proximity to each other, employees, and contractors in correctional facilities, the spread of COVID-19 there poses a significant threat to their health, welfare, and safety, as well as the communities in which they live or to which they will return;

WHEREAS, In order to reduce the threat to health, welfare, and safety caused by rapid transmission of COVID-19 between residents and staff in congregative correctional custody, and enable social distancing and other mitigation efforts, certain inmates must be removed from these facilities;

WHEREAS, Decisions regarding expeditious release for certain eligible inmates should consider threats to their health, access to appropriate medical and social services, and safeguards to protect public safety;

WHEREAS, It is in the public interest to prevent inmates' exposure to the novel coronavirus by expeditiously moving them to alternative places of confinement, such as in supervised community placement or their homes;

WHEREAS, It is reasonable to expect that certain inmates do not present a threat to public safety and will abide by the restrictions of alternative places of detention, provided there are plans to ensure access to places of residence, social services, and medical care;

WHEREAS, To prevent exposure to the novel coronavirus, protect the public health, welfare, and safety, and save lives, it is necessary that inmates and staff refrain from congregating, that these individuals' movements and the occupancy of prisons and other correctional facilities be controlled, and that part of their populations be evacuated;

WHEREAS, It is further necessary to suspend the effect of certain statutes, rules, and regulations regarding correctional detention and supervision procedures; and

WHEREAS, To mitigate the effects of the spread of COVID-19 and protect the public health, welfare, and safety, especially of vulnerable workers or incarcerated persons at Maryland prisons, it is necessary and reasonable to implement protocols and procedures for transfer out of the State's correctional institutions;

NOW, THEREFORE, I, LAWRENCE J. HOGAN, JR., GOVERNOR OF THE STATE OF MARYLAND, BY VIRTUE OF THE AUTHORITY VESTED IN ME BY THE CONSTITUTION AND LAWS OF MARYLAND, INCLUDING BUT NOT LIMITED TO TITLE 14 OF THE PUBLIC SAFETY ARTICLE, AND IN AN EFFORT TO PROTECT THE PUBLIC HEALTH, WELFARE, AND SAFETY, DO HEREBY ORDER:

1. To continue to safely reduce correctional facilities' populations of inmates and prevent the spread of COVID-19:

    a. The Commissioner of Correction (the "Commissioner") is authorized to, for all inmates in the custody of the Division of Correction:

        i. Who are scheduled to be released on mandatory supervision pursuant to § 7-501 of the Correctional Services Article of the Maryland Code ("CS") within 120 days of the date of this Order:

            1. Suspend any limitations on the accrual of diminution credits; and

2. Make awards of diminution credits as is deemed necessary and appropriate for expedited release on mandatory supervision ("early mandatory supervision") by the Division of Parole and Probation; or

ii. Who are otherwise eligible for home detention, immediately consider them for home detention ("expedited home detention"); and

b. The Maryland Parole Commission shall accelerate consideration of parole ("accelerated parole") for otherwise eligible inmates who at are least 60 years old and have:

i. A record of good institutional adjustment;

ii. An approved home plan; and

iii. Not been convicted of a crime of violence as defined by § 14-101 of the Criminal Law Article of the Maryland Code.

2. An inmate is not eligible for early mandatory supervision, expedited home detention, or accelerated parole if the term of confinement includes a sentence for a sexual offense.

3. At least five days before an inmate is released on early mandatory supervision or accelerated parole, notice must be provided to the victim and the State's Attorney who last prosecuted the inmate.

4. In determining the inmate's suitability for early mandatory supervision, the Commissioner shall consider:

a. Any information, input, or recommendations submitted by State's Attorney or victim; and

b. The inmate's:

i. Age;

ii. Medical conditions;

iii. Pregnancy, and

iv. Special needs.

5. Upon a determination that the action will reduce the inmate's risk of exposure to COVID-19 and will not compromise the health, welfare, or safety of the inmate, victims, or the public, the Commissioner may:

a. Release the inmate on early mandatory supervision:

i. Subject to all standard conditions of mandatory supervised release and any special conditions imposed by the Maryland Parole Commission; and

ii. In accordance with the provisions of this Order, but otherwise as soon as practicable; or

b. Place the inmate on expedited home detention.

6. An inmate released on early mandatory supervision shall receive:

a. An identification card from the Division of Correction; and

b. Assistance in applying for applicable medical benefits.

7. COVID-19 Screening

a. An inmate considered for release on early mandatory supervision, expedited home detention, or accelerated parole shall be evaluated for symptoms of COVID-19.

b. An inmate displaying symptoms of COVID-19 is ineligible for early mandatory supervision, home detention, or accelerated parole and shall be immediately isolated and subject to COVID-19 testing procedures and protocols.

c. The Maryland Department of Health shall be notified of any suspected COVID-19 cases among inmates screened for early mandatory supervision, expedited home detention, or accelerated parole.

8. Self-quarantine for a minimum of 14 days is required immediately upon release on early mandatory supervision, placement in expedited home detention, or accelerated parole.

9. All units of State and local government shall assist and provide data, information, and resources to the Commissioner and Maryland Parole Commission as may be requested and deemed necessary to comply with this Order and otherwise protect the health, welfare, and safety of inmates on early mandatory supervision, in expedited home detention, or with accelerated parole.

10. Effect of Other Laws.

a. The effect of any statute, rule, or regulation of an agency of the State or a political subdivision inconsistent with this Order (including CS §§ 3-708, 7-501(b), and 7-505(a), and Code of Maryland Regulations 12.02.26.05C(5) through (7)) is hereby suspended to the extent of the inconsistency.

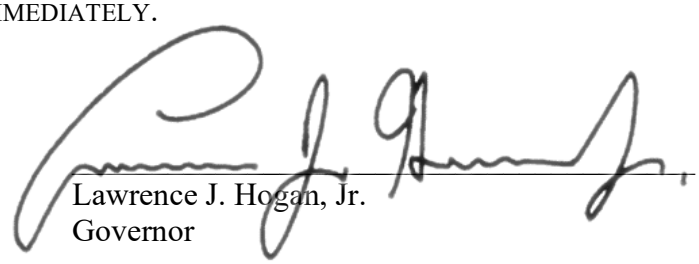
b. Except as expressly provided for herein, all other laws regarding an inmate's release on mandatory supervision, placement in home detention, or parole remain in effect.

11. This Order remains effective until the state of emergency is terminated and the proclamation of the catastrophic health emergency is rescinded, or until rescinded, superseded, amended, or revised by any subsequent orders.

12. The underlined paragraph headings in this Order are for convenience of reference only and shall not affect the interpretation of this Order.

13. If any provision of this Order or its application to any person, entity, or circumstance is held invalid by any court of competent jurisdiction, all other provisions or applications of the Order shall remain in effect to the extent possible without the invalid provision or application. To achieve this purpose, the provisions of this Order are severable.

ISSUED UNDER MY HAND THIS 17TH DAY OF NOVEMBER, 2020, AND EFFECTIVE IMMEDIATELY.



Lawrence J. Hogan, Jr.
Governor