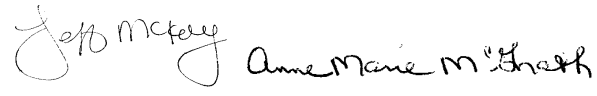
 Department of Corrections and Community Supervision DIRECTIVE	TITLE Proximity to Minor Child		NO. 4024
			DATE 06/15/2023
SUPERSEDES	DISTRIBUTION A B	PAGES PAGE 1 OF 3	DATE LAST REVISED
REFERENCES (Include but are not limited to) Correction Law (CL) § 72-C; Social Services § 2(31); Directives #0040, #4017, #4018, #4922	APPROVING AUTHORITY 		

- I. PURPOSE:** To establish uniform procedures for the transfer of incarcerated individuals to the correctional facility in closest proximity to their minor child(ren) (under the age of 18) when deemed suitable, appropriate, and practicable.
- II. POLICY:** Correction Law § 72(c) reads as follows:
- “1. In determining placement for a person in custody of the department, whenever practicable the commissioner shall place such person in the correctional institution or facility which is located in closest proximity to the primary place of residence of such person's minor child or children as defined in subdivision thirty-one of section two of the social services law, provided that such placement is suitable and appropriate, would facilitate increased contact between such person and his or her child or children, is in the best interest of such child or children, and the incarcerated parent gives his or her consent to such placement.
2. To make a determination about whether such placement is in the best interest of such child or children, procedures and criteria for assessing such placement shall be developed by the department in consultation with the office of children and family services. If such person has more than one child, the department shall make a separate determination for each individual child.”
- III. PROCEDURE**
- A. **Initial Interview:** During the Initial Interview, the Offender Rehabilitation Coordinator (ORC) will record in the Interview and Assessment System (IAS) the name, relationship, living status, date of birth, desire to be considered for a transfer in proximity of each reported minor child, contact information (name, address, county, and telephone number) for the individual with whom the child resides, custodial parent or legal guardian of each child, and method of contact for each child of the incarcerated individual.
- The ORC will ensure Proximity to Minor Child (PMC) information is reviewed and updated in the IAS during the scheduled case plan interview or subsequent Initial Interview.
- B. **Eligibility - Request for Consideration:** If an incarcerated individual requests consideration for a transfer in proximity to their minor child(ren) and has provided all of the required information, as indicated in subsection III-A, the ORC will record required information on [Form #4024D](#), “Best Interest of the Child Screening Checklist,” and complete the following:

1. Screen for exclusionary factors. Excludable criteria include a conviction of a crime against the child(ren) in question, or an active order of protection involving the child(ren) or the custodial parent or guardian of the child(ren) in question.
2. If an exclusionary factor exists, the ORC will not recommend transfer. The Supervising Offender Rehabilitation Coordinator (SORC) and ORC signatures will demonstrate that a review has been conducted. The SORC will verify exclusionary factors and the review will be forwarded to the Deputy Superintendent for Programs (DSP) for approval/disapproval. The Unscheduled Transfer Review will be completed, and the incarcerated individual notified as outlined in subsections III-C-2-a and III-C-4 respectively.
3. If no exclusionary factors exist, the ORC will send [Form #4024A](#), "Questionnaire for Proximity to Child Transfer," and an informational letter (included within [Form #4024A](#)) to the custodial parent/legal guardian for completion and return to the Guidance Unit at the assigned correctional facility. If the child(ren) is in custody of a social services agency, [Form #4024B](#), "Questionnaire for Proximity to Child Transfer," and an informational letter (included within [Form #4024B](#)) will be sent to the social services agency for completion and return to the Guidance Unit at the assigned correctional facility.

C. Determination

1. Upon receipt of the completed questionnaire from the custodial parent/legal guardian or social services agency, the ORC will complete [Form #4024D](#) and render a transfer recommendation.
 - a. When a transfer is recommended, SORC and ORC signatures will demonstrate suitability and appropriateness for the transfer.
 - b. When a transfer is not recommended, SORC and ORC signatures will demonstrate that the review indicates such a transfer is not suitable nor appropriate. Review will be forwarded to the DSP for approval/disapproval.
2. Unscheduled Transfer Review (UTR)
 - a. For all individuals who have requested a transfer in proximity to their minor child(ren), including those determined ineligible based upon exclusionary factors and those not recommended for transfer, the ORC will submit a UTR documenting status, indicating the DSP/SORC approval/disapproval for transfer.
 - b. In the event an individual is pending transfer action at the time of the Proximity to Minor Child UTR, the ORC will contact the Correction Classification Analyst for direction.
3. Requirements for transfer approval:
 - a. Child(ren) and custodial parent/legal guardian information is documented.
 - b. [Form #4024A/Form #4024B](#) is received from the parent/legal guardian.
 - c. The child(ren) must reside in New York State or a bordering state.
 - d. An individual must not be currently serving a disciplinary confinement sanction.

- e. An individual must not be currently participating in a specialized program.
 - f. An individual must be more than five months to a scheduled Parole Board appearance or release.
4. Notification to the Incarcerated Individual
- a. Following completion of the UTR, the ORC will forward written notification to the requesting incarcerated individual regarding the status of the transfer request using [Form 4024C](#), "Proximity to Minor Child Transfer Request," memorandum.
 - b. The ORC will address any questions regarding the transfer notification at a scheduled case plan interview.
 - c. All associated documents relating to the PMC review will be filed in the individual's Guidance folder.

IV. REMOVAL FROM PROXIMITY TO MINOR CHILD PLACEMENT: After receiving a PMC transfer, removal from proximity to minor child placement will occur for any one of the following:

- A. Refusal of any mandatory program.
- B. Two negative removals from the same mandatory program.
- C. Cumulative sanctions of more than 30 days disciplinary confinement within a one-year period.
- D. Two Tier 3 hearing guilty findings within a one-year period.
- E. Four Tier 2 hearing guilty findings within a one-year period.

A reverse transfer from proximity to minor child placement will render the individual ineligible for another proximity to minor child transfer for at least one year from date of removal.

V. REPORTING: An annual report will be published and shall include, but not be limited to, the number of incarcerated persons who are parents of minor children, the aggregate number of incarcerated parents by county of commitment, the number of incarcerated parents who are placed in a correctional facility in closest proximity to their children, the location of such facilities, the number of incarcerated parents for whom proximal placement was not provided, a general explanation of the reasons that such placement was not provided (which shall not include any identifying information), and the number of incarcerated parents who declined such placement.