**State of Maine: Notice of Agency Rulemaking – October 20, 2021**

**PROPOSALS**

AGENCY: **10-148** - Department of Health & Human Services (DHHS), **Office of Child and Family Services (OCFS)**

CHAPTER NUMBER AND TITLE: **Ch. 201**, Procedures for the Child Abuse or Neglect Findings, Appeals from Findings, and Appeals from Denial of Access to Certain Confidential Records

PROPOSED RULE NUMBER*:* **2021-P192**

BRIEF SUMMARY: This amendment to 10-148 ch. 201 will allow the Department to conduct hearings on indicated findings of abuse or neglect if the indicated individual demonstrates that they are experiencing or are likely to experience collateral consequences due to the indicated finding. The updated version also includes changes to terminology to clarify the rules, changes to notice requirements to reflect that an indicated individual may be entitled to a hearing, a provision providing the hearing officers with explicit authority to lower a finding from substantiated to indicated, and provisions regarding paper appeals to extend the Department's deadline to complete paper reviews and allowing paper reviewers to lower substantiated findings to indicated based on their review of the appeal.

The rules as currently written do not explicitly allows for a hearing on an indicated finding. This was a result of the substantial difference in the impact of an indicated finding versus a substantiated one.

Substantiated findings are reported out on child protective background checks and as a result may impact an individual's ability to find work in their chosen field. Indicated findings are not reported out on background checks but may still impact the indicated individual. Specifically, as part of a Clifford Order whereby the Department is required to turn over its records to the Court in a civil or criminal proceeding.

This will have an impact on individuals who are indicated for abuse and/or neglect of a child. If they can demonstrate they are experiencing or are likely to experience collateral consequences, they will have the ability to-appeal. The rules also contain provisions for individual previously indicated who are experiencing or are likely to experience collateral consequences.

PUBLIC HEARING: No hearing will be held.

COMMENT DEADLINE: 30 Days from date of publication (November 19, 2021)

CONTACT PERSON FOR THIS FILING: Debra White, OCFS, 2 Anthony Avenue – 11 State House Station, Augusta, ME 04330. Telephone: (207) 624-7968. Email: [Debra.White@Maine.gov](mailto:Debra.White@Maine.gov) .

FINANCIAL IMPACT ON MUNICIPALITIES OR COUNTIES*:* The proposed rule poses no fiscal impact to counties or municipalities.

STATUTORY AUTHORITY FOR THIS RULE: 22 MRS §§ 42, 4008(7), 5601-5610; PL 2015 c. 501

SUBSTANTIVE STATE OR FEDERAL LAW BEING IMPLEMENTED *(if different):*

OCFS RULES WEBSITE: <https://www.maine.gov/dhhs/ocfs/policy.shtml>

OCFS WEBSITE: <https://www.maine.gov/dhhs/ocfs/> .

DHHS WEBSITE: <https://www.maine.gov/dhhs/> .

DHHS RULEMAKING LIAISON: [Kevin.Wells@Maine.gov](mailto:Kevin.Wells@Maine.gov) .

AGENCY: **02-395** - Department of Professional and Financial Regulation (PFR), Office of Professional and Occupational Regulation (OPOR), **Plumbers’ Examining Board**

CHAPTER NUMBER AND TITLE: **Ch. 4**, Installation Standards

TYPE OF RULE: Routine Technical

PROPOSED RULE NUMBER: **2021-P193**

**BRIEF SUMMARY**: The rulemaking proposes amending the recently adopted ch. 4, *Installation Standards*, which establishes installation rules and incorporates by reference into board rule the International Association of Plumbing and Mechanical Officials *Uniform Plumbing Code* (“UPC”), Copyright © 2020 29th edition, Third Printing, May 2021, subject to certain amendments and exclusions. The proposed rule would make the following changes to the version of the UPC as adopted by the Board: amend Chapter 501.1, Applicability; exclude Table 501.1(1), Water Heaters; adopt Table 501.1(2), First Hour Rating; exclude Chapter 505.1, Water Heaters; exclude Chapter 505.2, Safety Devices; and exclude Chapter 721.0, Location through Chapter 723.1, General.

Go to <https://www.maine.gov/pfr/professionallicensing/professions/plumbers-examining-board> to find the proposed rule and related rulemaking documents.

**ADDITIONAL DETAILS:** The Board adopted ch. 4 as a repeal and replace at its August 9, 2021 meeting. The Board voted in favor of an effective date of January 1, 2022. At its October 4, 2021 meeting, the Board voted to propose rulemaking to modify the adopted rule for clarity and consistency; specifically to avoid adopting standards which may conflict with standards enforced by other agencies and not within the jurisdiction of the Plumbers’ Examining Board.

**PUBLIC HEARING**: N/A. *A hearing may be requested in accordance with 5 MRS §8052(1).*

COMMENT DEADLINE: Monday, November 22, 2021 by 5:00 p.m.

CONTACT PERSON FOR THIS FILING / SMALL BUSINESS IMPACT INFORMATION: Catherine M. Carroll, Board Administrator, 35 State House Station, Augusta, ME 04333. Telephone: (207) 624-8605. TTY users call Maine Relay 711. Email: [Catherine.M.Carroll@Maine.gov](mailto:Catherine.M.Carroll@Maine.gov) .

FINANCIAL IMPACT ON MUNICIPALITIES OR COUNTIES: N/A

STATUTORY AUTHORITY FOR THIS RULE: 32 MRS §§ 3403-A, 3403-B(1), 3302

SUBSTANTIVE STATE OR FEDERAL LAW BEING IMPLEMENTED: N/A

AGENCY WEBSITE: [www.maine.gov/professionallicensing](http://www.maine.gov/professionallicensing) .

OPOR RULEMAKING LIAISON: [Kristin.Racine@Maine.gov](mailto:Kristin.Racine@Maine.gov) .

**ADOPTIONS**

AGENCY: **10-144** - Department of Health and Human Services (DHHS), Office for Family Independence (OFI), **Division of Support Enforcement and Recovery (DSER)**

CHAPTER NUMBER AND TITLE: **Ch. 351**, Maine Child Support Enforcement Manual: **Ch. 2**, Definitions, page 11; **Ch. 5**, Limitation of Debt; Bar Against Collection (19-A MRS §2302); SSI, Rule 5(1), Limitation of Debt, page 23

ADOPTED RULE NUMBER: **2021-213**

CONCISE SUMMARY: The proposal implements technical corrections made to 45 CFR §307.11. To meet mandatory federal requirements, the proposal adds Social Security Retirement (SSR) benefits when referring to concurrent Supplemental Security Income (SSI) and Social Security Disability Insurance (SSDI) in the existing Rule 5(1) to prevent garnishment or income withholding of SSI payments and either SSDI or SSR benefits. The proposal also adds definitions for SSR, SSI and SSDI to Ch. 2.

See <http://www.maine.gov/dhhs/ofi/rules/index.shtml> for rules and related rulemaking documents.

EFFECTIVE DATE: October 17, 2021

DSER CONTACT PERSON: Gregory J. Garneau, Staff Attorney, Office for Family Independence, Department of Health & Human Services, 109 Capitol Street – 11 State House Station, Augusta, ME 04333. Telephone: (207) 624-6983. Fax: (207) 287-6883. TT Users Call Maine Relay – 711. Email: [Gregory.J.Garneau@Maine.gov](mailto:Gregory.J.Garneau@Maine.gov) .

DSER WEBSITE: <https://www.maine.gov/dhhs/ofi/programs-services/child-support-services> .

OFI WEBSITE: <https://www.maine.gov/dhhs/ofi> .

OFI RULEMAKING LIAISON: [Dan.Cohen@Maine.gov](mailto:Dan.Cohen@Maine.gov) . .

DHHS RULEMAKING LIAISON: [Kevin.Wells@Maine.gov](mailto:Kevin.Wells@Maine.gov) .

AGENCY: **06-096 - Department of Environmental Protection (DEP)**

CHAPTER NUMBER AND TITLE: **Ch. 424**, Solid Waste Management Rules: Lead Management Regulations

ADOPTED RULE NUMBER: **2021-214**

CONCISE SUMMARY: The Department repealed and replaced ch. 424, *Solid Waste Management Rules: Lead Management Regulations*. Ch. 424 contains the State’s program requirements for lead remediation and related activities in residential dwelling units and child-occupied facilities. The rule was updated through incorporation of revised and new regulations promulgated by U.S. Environmental Protection Agency (USEPA) regarding how lead hazards are cleared. (40 CFR 745)

EFFECTIVE DATE: October 19, 2021

DEP CONTACT PERSON: Tom Graham, Department of Environmental Protection, 17 State House Station, Augusta, ME 04333. Telephone: (207) 287-7598. Email: [Tom.Graham@Maine.gov](mailto:Tom.Graham@Maine.gov) .

DEP WEBSITE: <https://www.maine.gov/dep/> .

DEP RULEMAKING LIAISON: [Mark.T.Margerum@Maine.gov](mailto:Mark.T.Margerum@Maine.gov) .

AGENCY: **03-201 - Maine Department of Corrections (MDOC)**

CHAPTER NUMBER AND TITLE: **Ch. 10**, Policy and Procedures Manual – Adult: **Subsection 27.2**, Release Preparation: Supervised Community Confinement

ADOPTED RULE NUMBER: **2021-215** *(Emergency)*

CONCISE SUMMARY: This emergency rule amends the eligibility criteria for supervised community confinement by expanding the ordinary time eligibility from “no more than eighteen (18) months” remaining to be served to “no more than two (2) years” remaining to be served. Further, if the average state wide probation case load is no more than 90 offenders per probation officer, the eligibility will be expanded from “no more than two (2) years remaining to be served” to “no more than thirty (30) months remaining to be served.”

EFFECTIVE DATE: October 18, 2021

MDOC CONTACT PERSON / RULEMAKING LIAISON: Mary Lucia, Maine Department of Corrections, 111 State House Station, Augusta, Maine 04333. Telephone: (207) 530-0983. Email: [Mary.A.Lucia@Maine.gov](mailto:Mary.A.Lucia@Maine.gov) .

MDOC WEBSITE: <https://www.maine.gov/corrections/> .

AGENCY: **09-137 – Department of Inland Fisheries and Wildlife (IFW)**

CHAPTER NUMBER AND TITLE: **Ch. 1**, Open Water and Ice Fishing Regulations; **Ch. 1-A**, State Heritage Fish Waters

ADOPTED RULE NUMBERS: **2021-216, 217**

CONCISE SUMMARY: The Commissioner of Inland Fisheries and Wildlife has adopted rules pertaining to open water fishing and ice fishing. This body of rules is printed in its entirety in the Open Water & Ice Fishing Laws and Rules booklet (January 1, 2022 – December 31, 2022) and will be available from the Department, online at [www.maine.gov/ifw](http://www.maine.gov/ifw), as well as license agents. The Department has also removed one water from the State Heritage Fish waters list. For a copy of adopted changes prior to release of the laws and rules booklet, please contact the Agency Rulemaking Contact Person.

EFFECTIVE DATE: January 1, 2022

AGENCY CONTACT PERSON / IFW RULEMAKING LIAISON: Becky Orff, Inland Fisheries and Wildlife, 284 State Street - 41 State House Station, Augusta, ME 04333. Telephone: (207) 287-5202. Email: [Becky.Orff@Maine.gov](mailto:Becky.Orff@Maine.gov) .

IFW WEBSITE: <https://www.maine.gov/ifw/> .