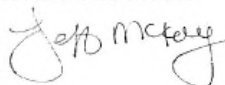

 <b>Corrections and Community Supervision</b>  <b>DIRECTIVE</b>	TITLE		NO. 4024
	<b>Proximity to Minor Child</b>		DATE 06/15/2023
SUPERSEDES	DISTRIBUTION A B	PAGES PAGE 1 OF 3	DATE LAST REVISED
REFERENCES (Include but are not limited to) Correction Law (CL) § 72-C; Social Services § 2(31); Directives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



DATE: **Enter Date**

**Enter Parent/Guardian Name and Address**

Dear **Enter Name**,

Correction Law section § 72(c) requires NYS Department of Corrections and Community Supervision to place incarcerated individuals in facilities that are in closest proximity to their minor (under age 18) children where practicable, if it is in the best interest of the child/children, and the incarcerated individual consents. **Enter Name of Incarcerated Individual** , DIN: **Enter DIN**, currently incarcerated at **Enter Facility** Correctional Facility, has requested a transfer closer to their child(ren) in order that the child(ren) may be able to visit. As the custodial parent /guardian of **Enter Child(ren) Name(s)**, your assistance with completion of the attached questionnaire is being requested to assist the Department with evaluating this transfer request.

Please understand completion and return of the questionnaire does not guarantee that the transfer will be approved. However, the questionnaire must be completed and returned to the address noted below, attention Guidance Unit, in order that the request for transfer can be evaluated. Your response is appreciated within 30 days from receipt.

**Enter Facility CF**  
**Enter Address**  
ATTENTION: GUIDANCE UNIT

Thank you for taking the time to assist the Department with this new initiative. Should you have any questions regarding completing the questionnaire, feel free to reach out to me at **Enter Phone #** .

Sincerely,

**Enter ORC Name**  
Offender Rehabilitation Coordinator

cc: Guidance File



Questionnaire for Proximity to Child Transfer

Incarcerated Individual Name: Enter Name of Incarcerated Individual DIN: Enter DIN

Custodial Parent/Guardian Name: Today's Date:

Address: Apt. #: Zip Code:

Phone number: Alternate Phone number:

E-mail address:

Please provide information for each child listed that Enter Name of Incarcerated Individual is requesting a closer to home transfer for:

Child's Name: Enter Name Date of Birth: Enter DOB

Address: Apt. #: Zip Code:

Phone number: Alternate Phone number:

As the custodial parent/guardian would you permit, and arrange for, in person visiting with Enter Name of Incarcerated Individual, provided they are in a facility close to you? yes no

Child's Name: Enter Name Date of Birth: Enter DOB

Address: Apt. #: Zip Code:

Phone number: Alternate Phone number:

As the custodial parent/guardian of would you permit, and arrange for, in person visiting with Enter Name of Incarcerated Individual, provided they are in a facility close to you? yes no

Child's Name: Enter Name Date of Birth: Enter DOB

Address: Apt. #: Zip Code:

Phone number: Alternate Phone number:

As the custodial parent/guardian would you permit, and arrange for, in person visiting with Enter Name of Incarcerated Individual, provided they are in a facility close to you? yes no

Signature Custodial Parent/Guardian: Date:

cc: Guidance File



# Corrections and Community Supervision

DATE: **Enter Date**

## **Enter Agency Name and Address**

Dear **Enter Name**,

Correction Law section § 72(c) requires NYS Department of Corrections and Community Supervision to place incarcerated individuals in facilities that are in closest proximity to their minor (under age 18) children where practicable, if it is in the best interest of the child/children, and the incarcerated individual consents. **Enter Name of Incarcerated Individual**, DIN: **Enter DIN**, currently incarcerated at **Enter Facility** Correctional Facility (CF), has requested a transfer closer to their child(ren) in order that the child(ren) may be able to visit. As the agency currently awarded guardianship of **Enter Child(ren) Name(s)**, Date of Birth **Enter DOB(s)**, your assistance with completion of the attached questionnaire is being requested to assist the Department with evaluating this transfer request.

Please understand completion and return of the questionnaire does not guarantee that the transfer will be approved. However, the questionnaire must be completed and returned to the address noted below, attention Guidance Unit, in order that the request for transfer can be evaluated. Your response is appreciated within 30 days from receipt.

**Enter Facility** CF  
**Enter Address**  
**Enter Guidance Shared Email address**  
ATTENTION: GUIDANCE UNIT

Thank you for taking the time to assist the Department with this new initiative. Should you have any questions regarding completion of this questionnaire, feel free to reach out to me at **Enter Phone #**.

Sincerely,

**Enter ORC Name**  
Offender Rehabilitation Coordinator

cc: Guidance File



# Corrections and Community Supervision

## Questionnaire for Proximity to Child Transfer

Incarcerated Individual Name: **Enter Name** DIN: **Enter DIN**

DATE: **Enter Date**

Agency: **Enter Agency Name and Address**

Please provide information for *each child* listed that **Enter Name of Incarcerated Individual**, DIN **Enter DIN** is requesting a proximity to child transfer:

Name of Child: **Enter Name** Date of Birth: **Enter DOB**

Address or County of child's residence: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Case Worker Name: \_\_\_\_\_

Phone number: \_\_\_\_\_ Alternate Phone number: \_\_\_\_\_

As the agency currently having guardianship of **Enter Child's Name**, would you permit, and arrange for, in person visiting with **Enter Name of Incarcerated Individual**, provided they are in a facility close to the child?  YES  NO

Signature Case Worker: \_\_\_\_\_ Date: \_\_\_\_\_

Name of Child: **Enter Name** Date of Birth: **Enter DOB**

Address or County of child's residence: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Case Worker Name: \_\_\_\_\_

Phone number: \_\_\_\_\_ Alternate Phone number: \_\_\_\_\_

As the agency currently having guardianship of **Enter Child's Name**, would you permit, and arrange for, in person visiting with **Enter Name of Incarcerated Individual**, provided they are in a facility close to the child?  YES  NO

Signature Case Worker: \_\_\_\_\_ Date: \_\_\_\_\_

cc: Guidance File



**MEMORANDUM**

**TO:**

**FROM:**

**DATE:**

**SUBJECT: PROXIMITY TO MINOR CHILD TRANSFER REQUEST**

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In accordance with Correction Law (CL) § 72(c)\*, the Department has reviewed your request to be transferred to a facility which is located in closest proximity to the primary place of residence of your minor child or children. The determination is indicated below.

- Approved. Unscheduled Transfer Review (UTR) has been submitted to the Office of Classification and Movement.

**Note:** 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. A reverse transfer will occur for any one of the following:

- Refusal of any mandatory program
- Two negative removals from the same mandatory program
- Cumulative sanction of more than 30 days disciplinary confinement within a one-year period
- Two Tier 3 hearing guilty findings within a one-year period
- Four Tier 2 hearing guilty findings within a one-year period

- Denied due to the exclusionary factor that you have been convicted of a crime against the child(ren) in question.
- Denied due to the exclusionary factor that you have an active order of protection involving the child(ren) or custodial/legal guardian in question.
- Denied as such placement has been determined by the Department not to be in the best interest of the child(ren) in question.

\*CL § 72(c) states that your placement in a facility in close proximity to your child(ren) must be deemed suitable and appropriate. The Office of Classification and Movement will conduct a review of, but not limited to, security classification, mental health status and medical needs. There are many considerations which may impact your date of transfer, not limited to facility bed space and movement availability. Your assigned Offender Rehabilitation Coordinator will notify you when your transfer has been approved. Additional questions regarding your transfer will be addressed at your scheduled quarterly Case Plan interview.



**New York State Department of Corrections and Community Supervision**

**Best Interest of the Child Screening Checklist**

**Directions:** Please complete the following checklist for the child(ren) of the incarcerated individual to determine suitability for a proximity to child(ren) transfer.

Date:

Incarcerated Individual Name:

DIN:

Child #1 Name:

Date of Birth:

Child #2 Name:

Date of Birth:

Child #3 Name

Date of Birth:

Child #4 Name

Date of Birth:

Child #5 Name

Date of Birth:

**EXCLUSIONARY FACTORS:**

**YES NO**

Has the incarcerated individual ever been convicted of a crime against the child(ren) in question? If 'YES'

Child #:

Crime of conviction(s):

Conviction Date(s):

**YES NO**

Does the incarcerated individual have an active order of protection(s) (OOP) involving the child(ren) in question? If 'YES'

Child #:

Expiration Date of Order(s):

**YES NO**

Does the incarcerated individual have an active order of protection(s) (OOP) involving the custodial parent/guardian of the child(ren) in question? If 'YES'

Child #:

Expiration Date of Order(s):

**IF 'YES' to any Exclusionary Factor, checklist is complete.**

(ORC/SORC/DSP signatures are required)

**IF 'NO' to all Exclusionary Factors, continue to "Case by Case Evaluative Factors"**

**New York State Department of Corrections and Community Supervision**

**CASE BY CASE EVALUATIVE FACTORS:**

**YES NO**

Does the incarcerated individual have an expired order of protection(s) involving the child(ren) in question? If 'YES'

Child #:

Expiration Date of Order(s):

Provide any known details of the expired OOP(s) to include: source of information, description of events resulting in OOP, known violations:

**YES NO**

Is there ongoing communication with the child(ren)? If 'YES' check all that apply:

- Telephone
- Tablet
- Visits
- FRP
- Written correspondence
- Other

**YES NO**

Has there been Input/Consultation with  Custodial Parent  Guardian? If 'YES', check all that apply

- Written correspondence
- Telephone
- Transfer supported – Best Interest of the Child(ren)
- Transfer NOT supported – NOT Best Interest of the Child(ren)
- Parental Rights Terminated

Transfer recommended

Transfer NOT recommended

ORC Signature \_\_\_\_\_

Transfer recommended

Transfer NOT recommended

SORC Signature \_\_\_\_\_

Comments, if any:

DSP signature \_\_\_\_\_  
(DSP signature required if transfer is NOT recommended by SORC)