

**Title 17-A: MAINE CRIMINAL CODE**  
**Chapter 54-F: DEFERRED DISPOSITION**

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**Maine Revised Statutes**  
**Title 17-A: MAINE CRIMINAL CODE**  
**Chapter 54-F: DEFERRED DISPOSITION**

**§1348. ELIGIBILITY FOR DEFERRED DISPOSITION**

A person who has pled guilty to a Class C, Class D or Class E crime and who consents to a deferred disposition in writing is eligible for a deferred disposition. [ 2005, c. 527, §21 (AMD) . ]

SECTION HISTORY

2003, c. 711, §A19 (NEW). 2005, c. 527, §21 (AMD) .

**§1348-A. DEFERRED DISPOSITION**

1. Following the acceptance of a plea of guilty for a crime for which a person is eligible for a deferred disposition under section 1348, the court may order sentencing deferred to a date certain or determinable and impose requirements upon the person, to be in effect during the period of deferment, considered by the court to be reasonable and appropriate to assist the person to lead a law-abiding life. The court-imposed deferment requirements must include a requirement that the person refrain from criminal conduct and may include a requirement that the person pay to the appropriate county an administrative supervision fee of not more than \$50 per month, as determined by the court, for the term of the deferment. In determining the amount of the fee, the court shall take into account the financial resources of the person and the nature of the burden its payment imposes. In exchange for the deferred sentencing, the person shall abide by the court-imposed deferment requirements. Unless the court orders otherwise, the requirements are immediately in effect.

[ 2005, c. 288, §1 (AMD) . ]

2. During the period of deferment and upon application of the person granted deferred disposition pursuant to subsection 1 or of the attorney for the State or upon the court's own motion, the court may, after a hearing upon notice to the attorney for the State and the person, modify the requirements imposed by the court, add further requirements or relieve the person of any requirement imposed by the court that, in the court's opinion, imposes an unreasonable burden on the person.

[ 2003, c. 711, Pt. A, §19 (NEW) . ]

3. During the period of deferment, if the person cannot meet a deferment requirement imposed by the court, the person shall bring a motion pursuant to subsection 2.

[ 2005, c. 265, §11 (NEW) . ]

4. For purposes of a deferred disposition, a person is deemed to have been convicted when the court imposes the sentence. Notwithstanding Title 15, section 1003, subsection 9, prior to sentence imposition, preconviction bail applies to the person.

[ 2013, c. 519, §8 (AMD) . ]

5. A deferred disposition is a preferred disposition in a prosecution for possession of schedule W drugs under section 1107-A, subsection 1, paragraphs B and B-1.

[ 2015, c. 496, §10 (NEW) . ]

SECTION HISTORY

2003, c. 711, §A19 (NEW). 2005, c. 265, §11 (AMD). 2005, c. 288, §1 (AMD). 2009, c. 336, §15 (AMD). 2013, c. 519, §8 (AMD). 2015, c. 496, §10 (AMD).

## §1348-B. COURT HEARING AS TO FINAL DISPOSITION

1. Unless a court hearing is sooner held under subsection 2, and except as provided in subsection 1-A, at the conclusion of the period of deferment, after notice, a person who was granted deferred disposition pursuant to section 1348-A shall return to court for a hearing on final disposition. If the person demonstrates by a preponderance of the evidence that the person has complied with the court-imposed deferment requirements, the court shall impose a sentencing alternative authorized for the crime to which the person pled guilty and consented to in writing at the time sentencing was deferred or as amended by agreement of the parties in writing prior to sentencing, unless the attorney for the State, prior to sentence imposition, moves the court to allow the person to withdraw the plea of guilty. Except over the objection of the defendant, the court shall grant the State's motion. Following the granting of the State's motion, the attorney for the State shall dismiss the pending charging instrument with prejudice. If the court finds that the person has inexcusably failed to comply with the court-imposed deferment requirements, the court shall impose a sentencing alternative authorized for the crime to which the person pled guilty.

[ 2009, c. 336, §16 (AMD) .]

1-A. Notwithstanding subsection 1, if at the conclusion of the period of deferment and prior to sentence imposition the attorney for the State in writing moves the court to allow the person to withdraw the plea of guilty and the defendant in writing agrees to such withdrawal, the court may, without a hearing on final disposition and in the absence of the person, grant the attorney for the State's motion and allow the person to withdraw the plea. Following such court action, the attorney for the State shall dismiss the pending charging instrument with prejudice.

[ 2009, c. 336, §16 (NEW) .]

2. If during the period of deferment the attorney for the State has probable cause to believe that a person who was granted deferred disposition pursuant to section 1348-A has violated a court-imposed deferment requirement, the attorney for the State may move the court to terminate the remainder of the period of deferment and impose sentence. Following notice and hearing, if the attorney for the State proves by a preponderance of the evidence that the person has inexcusably failed to comply with a court-imposed deferment requirement, the court may continue the running of the period of deferment with the requirements unchanged, modify the requirements, add further requirements or terminate the running of the period of deferment and impose a sentencing alternative authorized for the crime to which the person pled guilty. When a person fails to pay the administrative supervision fee as required under section 1348-A, subsection 1, the court may terminate the running of the period of deferment and impose sentence unless the person shows that failure to pay was not attributable to a willful refusal to pay or to a failure on that person's part to make a good faith effort to obtain the funds required for the payment. If the court finds that the person has not inexcusably failed to comply with a court-imposed deferment requirement, the court may order that the running of the period of deferment continue or, after notice and hearing, take any other action permitted under this chapter.

[ 2005, c. 683, Pt. A, §20 (RPR) .]

3. A hearing under this section or section 1348-A must be held in the court that ordered the deferred disposition. The hearing need not be conducted by the justice or judge who originally ordered the deferred disposition.

[ 2003, c. 711, Pt. A, §19 (NEW) .]

4. The person at a hearing under this section or section 1348-A must be afforded the opportunity to confront and cross-examine witnesses against the person, to present evidence on that person's own behalf and to be represented by counsel. If the person who was granted deferred disposition pursuant to section 1348-A can not afford counsel, the court shall appoint counsel for the person. Assignment of counsel and withdrawal of counsel must be in accordance with the Maine Rules of Unified Criminal Procedure.

[ 2015, c. 431, §43 (AMD) .]

5. A summons may be used to order a person who was granted deferred disposition pursuant to section 1348-A to appear for a hearing under this section. If the person fails to appear after having been served with a summons, the court may issue a warrant for the arrest of the person.

[ 2005, c. 265, §12 (AMD) .]

6.

[ 2005, c. 265, §13 (RP) .]

7. If during the period of deferment the attorney for the State has probable cause to believe that a person who was granted deferred disposition pursuant to section 1348-A has violated a court-imposed deferment requirement, the attorney for the State may apply for a warrant for the arrest of the person or request that a warrantless arrest be made of the person pursuant to section 15, subsection 1, paragraph A, subparagraph (17).

[ 2009, c. 336, §16 (AMD) .]

#### SECTION HISTORY

2003, c. 711, §A19 (NEW). 2005, c. 265, §§12-14 (AMD). 2005, c. 288, §2 (AMD). 2005, c. 683, §A20 (AMD). 2009, c. 336, §16 (AMD). 2015, c. 431, §43 (AMD).

### **§1348-C. LIMITED REVIEW BY APPEAL**

A person is precluded from seeking to attack the legality of a deferred disposition, including a final disposition, except that a person who has been determined by a court to have inexcusably failed to comply with a court-imposed deferment requirement and thereafter has been sentenced to an alternative authorized for the crime may appeal to the Law Court, but not as of right. The time for taking the appeal and the manner and any conditions for the taking of the appeal are as the Supreme Judicial Court provides by rule. [ 2003, c. 711, Pt. A, §19 (NEW) .]

#### SECTION HISTORY

2003, c. 711, §A19 (NEW) .

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