

§1805. Partially suspended term of imprisonment with probation or split sentence

1. Determination of date probation begins; revocation; place of imprisonment. Unless prohibited pursuant to section 1802, subsection 1, paragraphs A to F, the court may impose a split sentence by sentencing an individual to a term of imprisonment not to exceed the maximum term authorized for the crime, an initial portion of which is to be served and the remainder of which is to be suspended, and accompany the suspension with a period of probation not to exceed the maximum period authorized for the crime. The period of probation commences on the date the individual is released from the unsuspended portion of the term of imprisonment, unless the court orders it to commence on an earlier date. If the period of probation commences on the date the person is released from the initial unsuspended portion of the term of imprisonment, that day is counted as the first full day of the period of probation.

A. If the period of probation commences upon release of the individual from an unsuspended portion of the term of imprisonment, the court may revoke probation for any criminal conduct committed during that unsuspended portion of the term of imprisonment. [PL 2019, c. 113, Pt. A, §2 (NEW).]

B. If execution of the sentence is stayed, the court may revoke probation for criminal conduct committed during the period of stay or for failure to report as ordered. [PL 2019, c. 113, Pt. A, §2 (NEW).]

C. The court may revoke probation if, during any unsuspended portion of the term of imprisonment, an individual sentenced as a repeat sexual assault offender, pursuant to section 1804, subsection 4, refuses to actively participate in a sex offender treatment program in accordance with the expectations and judgment of the treatment providers, when requested to do so by the Department of Corrections. [PL 2019, c. 113, Pt. A, §2 (NEW).]

D. The court may revoke probation if, during an unsuspended portion of the term of imprisonment:

(1) The individual has contact with a victim with whom the individual has been ordered not to have contact as a condition of probation;

(2) In the case of an individual who has been committed to the Department of Corrections, the individual has contact with any victim with whom the individual has been prohibited to have contact by the Department of Corrections; or

(3) In the case of an individual who has been committed to a county or regional jail, the individual has contact with any victim with whom the individual has been prohibited to have contact by the county or regional jail. [PL 2019, c. 113, Pt. A, §2 (NEW).]

E. As to both the suspended and unsuspended portions of the sentence, the place of imprisonment must be as follows.

(1) For a Class D or Class E crime, the court must specify a county jail as the place of imprisonment.

(2) For a Class A, Class B or Class C crime, the court must:

(a) Specify a county jail as the place of imprisonment for any portion of the sentence that is 9 months or less; and

(b) Commit the individual to the Department of Corrections for any portion of the sentence that is more than 9 months. [PL 2019, c. 113, Pt. A, §2 (NEW).]

[PL 2021, c. 608, Pt. D, §1 (AMD).]

2. Applicability to prosecution of crime committed prior to September 23, 1983. In any prosecution for a crime committed prior to September 23, 1983, the court may, with the consent of the defendant, impose a sentence under subsection 1.

[PL 2019, c. 113, Pt. A, §2 (NEW).]

SECTION HISTORY

PL 2019, c. 113, Pt. A, §2 (NEW). PL 2021, c. 608, Pt. D, §1 (AMD).

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