

§1903. Court hearing as to final disposition

1. Final disposition following period of deferment. Unless a court hearing is sooner held under subsection 3, and except as provided in subsection 2, at the conclusion of the period of deferment, after notice, a person who was granted deferred disposition pursuant to section 1902 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 person, the court shall grant the State's motion. If the court grants 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.

[PL 2019, c. 113, Pt. A, §2 (NEW).]

2. Consensual withdrawal of guilty plea by parties. 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 person 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.

[PL 2019, c. 113, Pt. A, §2 (NEW).]

3. Violation of deferment requirement. 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 1902 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 an administrative supervision fee imposed under section 1902, 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 subchapter.

[PL 2019, c. 113, Pt. A, §2 (NEW).]

4. Place of hearing. A hearing under this section or section 1902 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.

[PL 2019, c. 113, Pt. A, §2 (NEW).]

5. Rights of person at hearing. The person at a hearing under this section or section 1902 must be given 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 1902 cannot 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.

[PL 2019, c. 113, Pt. A, §2 (NEW).]

6. Summons to appear at hearing; failure to appear. A summons may be used to order a person who was granted deferred disposition pursuant to section 1902 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.

[PL 2019, c. 113, Pt. A, §2 (NEW).]

7. Authority of attorney for State regarding violation of condition of deferment. 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 1902 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).

[PL 2019, c. 113, Pt. A, §2 (NEW).]

SECTION HISTORY

PL 2019, c. 113, Pt. A, §2 (NEW).

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