

### §2033. Default

**1. Return to court.** An individual who has been sentenced to perform community service work pursuant to section 2031 and fails to complete the specified number of hours of work in the manner ordered by the court must be returned to the court to explain the failure.

[PL 2019, c. 113, Pt. A, §2 (NEW).]

**2. Report of failure.** If the entity for which the court orders an individual to perform community service work pursuant to section 2031 knows that the individual has failed to meet the requirements of the order, the entity may report the failure to the attorney for the State or to the court. If the attorney for the State knows of the default, the attorney for the State shall report the default to the court.

[PL 2019, c. 113, Pt. A, §2 (NEW).]

**3. Motion to enforce sentence or motion to seek coercive or punitive sanction.** Either the attorney for the State or the court may initiate a motion to enforce completion of community service work ordered by the court pursuant to section 2031 or may initiate a motion seeking a coercive or punitive sanction for the default as specified in subsection 4, paragraphs C and D. The court shall send notification of the hearing on the motion by regular mail to the individual's last known address. If the individual does not appear for the hearing after proper notification has been sent, the court may issue a bench warrant.

[PL 2019, c. 113, Pt. A, §2 (NEW).]

**4. Hearing on motion.** At a hearing under subsection 3, unless the individual who has been sentenced to perform community service work shows by a preponderance of the evidence that the default was not attributable to an intentional or knowing refusal to obey the court's order or to a failure on the individual's part to make a good faith effort to comply with the order, the court shall find that the default was unexcused and may:

A. Reaffirm the requirement that the individual complete the community service work as previously ordered; [PL 2019, c. 113, Pt. A, §2 (NEW).]

B. Modify the original order as to:

(1) When the community service work is to be performed;

(2) The entity for whom the work is to be performed; or

(3) The nature of the work to be performed; [PL 2019, c. 113, Pt. A, §2 (NEW).]

C. Impose a coercive sanction by committing the individual to the custody of a sheriff until such time as the individual demonstrates to the court a willingness to comply with the order. The commitment imposed pursuant to this paragraph may not exceed 6 months; or [PL 2019, c. 113, Pt. A, §2 (NEW).]

D. Impose a punitive sanction by committing the individual to the custody of a sheriff. The commitment imposed pursuant to this paragraph may not exceed 6 months. [PL 2019, c. 113, Pt. A, §2 (NEW).]

The provisions of Rule 66 of the Maine Rules of Civil Procedure do not apply to a hearing on a motion seeking a coercive or punitive sanction imposed pursuant to paragraph C or D.

[PL 2019, c. 113, Pt. A, §2 (NEW).]

**5. Commitment order; tolling of undischarged term; no deductions.** If the court orders an individual committed as a coercive sanction pursuant to subsection 4, paragraph C:

A. The court may order that an undischarged term of imprisonment be tolled for the duration of the coercive commitment if the individual is in execution of the undischarged term of imprisonment on a sentence in this State; and [PL 2019, c. 113, Pt. A, §2 (NEW).]

B. The individual may not receive a deduction for time detained as a result of an arrest made under subsection 3 or a deduction based on conduct or participation in programs established or approved by the administrator of the jail to which the individual is committed during the coercive commitment. [PL 2019, c. 113, Pt. A, §2 (NEW).]

[PL 2019, c. 113, Pt. A, §2 (NEW).]

**6. Commitment order; nonconcurrent with any term of imprisonment; deduction only for time detained.** If the court orders an individual committed as a punitive sanction pursuant to subsection 4, paragraph D:

A. The committal must not be concurrent with another term of imprisonment in this State imposed pursuant to a judgment of conviction; [PL 2019, c. 113, Pt. A, §2 (NEW).]

B. The individual must receive a day-for-day deduction for time detained as a result of an arrest made under subsection 3; and [PL 2019, c. 113, Pt. A, §2 (NEW).]

C. The individual may not receive a deduction based on conduct or participation in programs established or approved by the administrator of the jail to which the individual is committed during the commitment imposed as a punitive sanction. [PL 2019, c. 113, Pt. A, §2 (NEW).]

[PL 2019, c. 113, Pt. A, §2 (NEW).]

**7. Right to counsel.** At a hearing under subsection 3 in which the State seeks a coercive or punitive sanction for a default, the individual has the right to be represented by counsel. If the individual cannot afford counsel, the court shall assign counsel for the individual unless the court concludes that in the event of a finding of an unexcused default the options in subsection 4, paragraphs C and D will not be employed by the court.

[PL 2019, c. 113, Pt. A, §2 (NEW).]

**8. Excused default.** If at a hearing under subsection 3 the court finds the default to be excused, the court may leave its prior order in place or modify the order as to the time for completion, the nature of the work to be performed or the entity for which the work is to be performed.

[PL 2019, c. 113, Pt. A, §2 (NEW).]

**9. Supervision of work.** The Department of Corrections is not responsible for supervision of community service work imposed pursuant to section 2031.

[PL 2019, c. 113, Pt. A, §2 (NEW).]

## SECTION HISTORY

PL 2019, c. 113, Pt. A, §2 (NEW).

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