CHAPTER 67

CONDITIONAL RELEASE

SUBCHAPTER 1

PROBATION

§1801. Definitions

As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings. [PL 2019, c. 113, Pt. A, §2 (NEW).]

1. Dating partner. "Dating partner" has the same meaning as in Title 19-A, section 4002, subsection 3-A.
[PL 2019, c. 113, Pt. A, §2 (NEW).]

2. Family or household member. "Family or household member" has the same meaning as in Title 19-A, section 4002, subsection 4.
[PL 2019, c. 113, Pt. A, §2 (NEW).]

3. Victim. "Victim" means:

A. A person who is the victim of a crime; [PL 2019, c. 113, Pt. A, §2 (NEW).]

B. The immediate family of a victim of a crime if:

(1) The underlying crime is one of domestic violence or sexual assault or one in which the family suffered serious physical trauma or serious financial loss; or

(2) Due to death, age, physical or mental disease, disorder or defect, the victim is unable to participate as allowed by law; or [PL 2019, c. 113, Pt. A, §2 (NEW).]

C. A person who has obtained under Title 19-A, section 4007 an active protection order or approved consent agreement against the defendant. [PL 2019, c. 113, Pt. A, §2 (NEW).]
[PL 2019, c. 113, Pt. A, §2 (NEW).]

SECTION HISTORY

PL 2019, c. 113, Pt. A, §2 (NEW).

§1802. Eligibility for sentencing alternative that includes period of probation

1. General eligibility. A person who has been convicted of a crime may be sentenced to a sentencing alternative under section 1502 that includes a period of probation, unless:

A. The conviction is for murder; [PL 2019, c. 113, Pt. A, §2 (NEW).]

B. The conviction is for a Class D or Class E crime other than:

(1) A Class D or Class E crime relative to which, based upon both the written agreement of the parties and a court finding, the facts and circumstances of the underlying criminal episode giving rise to the conviction generated probable cause to believe the person had committed a Class A, Class B or Class C crime in the course of that criminal episode and, as agreed upon in writing by the parties and found by the court, the person does not have a prior conviction for murder or for a Class A, Class B or Class C crime and has not been placed on probation pursuant to this subparagraph on any prior occasion;

(2) A Class D crime that the State pleads and proves was committed against a family or household member or a dating partner under chapter 9 or 13 or section 554, 555 or 758;

(3) A Class D crime under Title 5, section 4659, subsection 1; Title 15, section 321, subsection 6; or Title 19-A, section 4011, subsection 1;

(4) A Class D or Class E crime in chapter 11 or 12;

(5) A Class D crime under section 210-A;

(6) A Class E crime under section 552;

(7) A Class D or Class E crime under section 556, section 853, section 854, excluding subsection 1, paragraph A, subparagraph (1), or section 855;

(8) A Class D crime in chapter 45 relating to a schedule W drug;

(9) A Class D or Class E crime under Title 29-A, section 2411, subsection 1-A, paragraph B;

(10) A Class D crime under Title 17, section 1031; or

(11) A Class E crime under Title 15, section 1092, subsection 1, paragraph A, if the condition of release violated is specified in Title 15, section 1026, subsection 3, paragraph A, subparagraph (5) or (8) and the underlying crime involved domestic violence; [PL 2019, c. 113, Pt. A, §2 (NEW).]

C. The court sentences the person to a sentencing alternative under section 1502 that includes a period of administrative release; [PL 2019, c. 113, Pt. A, §2 (NEW).]

D. The court sentences the individual to a term of imprisonment followed by a period of supervised release as authorized by subchapter 3; [PL 2019, c. 113, Pt. A, §2 (NEW).]

E. The statute that the person is convicted of violating expressly provides that the fine or imprisonment penalties it authorizes may not be suspended, in which case the person must be sentenced to the imprisonment and required to pay the fine authorized in that statute; or [PL 2019, c. 113, Pt. A, §2 (NEW).]

F. The court finds that such a sentence would diminish the gravity of the crime for which that person was convicted. [PL 2019, c. 113, Pt. A, §2 (NEW).]

[PL 2019, c. 113, Pt. A, §2 (NEW).]

2. Eligibility for persons needing supervision or assistance. A person who is eligible for sentence under this subchapter, as provided in subsection 1, may be sentenced to a sentencing alternative that includes a period of probation if the person is in need of the supervision, guidance, assistance or direction that probation can provide.

[PL 2019, c. 113, Pt. A, §2 (NEW).]

SECTION HISTORY

PL 2019, c. 113, Pt. A, §2 (NEW).

§1803. Definite period of probation required

In imposing a sentencing alternative under section 1502 that includes a period of probation, the court shall set a definite period of probation. [PL 2019, c. 113, Pt. A, §2 (NEW).]

SECTION HISTORY

PL 2019, c. 113, Pt. A, §2 (NEW).

§1804. Period of probation; modification; termination and discharge

1. Limit on length of probation. Except as provided in subsections 2, 3, 4, 5 and 6, the period of probation for a person may not exceed:

A. For a Class A crime, 4 years; [PL 2019, c. 113, Pt. A, §2 (NEW).]

B. For a Class B crime, 3 years; [PL 2019, c. 113, Pt. A, §2 (NEW).]

C. For a Class C crime, 2 years; and [PL 2019, c. 113, Pt. A, §2 (NEW).]

D. For a Class D or Class E crime, one year. [PL 2019, c. 113, Pt. A, §2 (NEW).]

[PL 2019, c. 113, Pt. A, §2 (NEW).]

2. Exception to limits when victim is less than 12 years of age. If the State pleads and proves that at the time of the crime the victim had not attained 12 years of age or, in the case of a crime under sections 283 and 284, the victim had not attained 12 years of age at the time the sexually explicit conduct occurred, the period of probation for a person convicted under chapter 11 or 12 may not exceed:

A. For a Class A crime, 18 years; [PL 2019, c. 113, Pt. A, §2 (NEW).]

B. For a Class B crime, 12 years; and [PL 2019, c. 113, Pt. A, §2 (NEW).]

C. For a Class C crime, 6 years. [PL 2019, c. 113, Pt. A, §2 (NEW).]

[PL 2019, c. 113, Pt. A, §2 (NEW).]

3. Exception to limits when victim is family or household member. If the State pleads and proves that the person was convicted of committing against a family or household member a crime under chapter 9 or 13 or section 554 or if the person was convicted under chapter 11 or 12 or section 556, the period of probation may not exceed:

A. For a Class A crime, 6 years; and [PL 2019, c. 113, Pt. A, §2 (NEW).]

B. For a Class B or Class C crime, 4 years. [PL 2019, c. 113, Pt. A, §2 (NEW).]

[PL 2019, c. 113, Pt. A, §2 (NEW).]

4. Exception to limits when person sentenced as repeat sexual assault offender. The period of probation for a person sentenced as a repeat sexual assault offender pursuant to section 253-A, subsection 1 is any term of years.

[PL 2019, c. 113, Pt. A, §2 (NEW).]

5. Exception to limits when person sentenced for nonsupport of dependents. The period of probation for a person sentenced for the crime of nonsupport of dependents under section 552 is as provided under section 552, subsection 4.

[PL 2019, c. 113, Pt. A, §2 (NEW).]

6. Exception to limits when person ordered to complete batterers' intervention program and pay restitution. If the State pleads and proves that the enumerated Class D or Class E crime was committed by the person against a family or household member and the court orders the person to complete a certified batterers' intervention program as defined in Title 19-A, section 4014, the person may be placed on probation for a period not to exceed 2 years, except that, on motion by the person's probation officer, the person or the court, the term of probation must be terminated by the court when the court determines that the person has:

A. Served at least one year of probation; [PL 2019, c. 113, Pt. A, §2 (NEW).]

B. Completed the certified batterers' intervention program; [PL 2019, c. 113, Pt. A, §2 (NEW).]

C. Paid in full any victim restitution ordered; and [PL 2019, c. 113, Pt. A, §2 (NEW).]

D. From the time the period of probation commenced until the motion for termination is heard, met all other conditions of probation. [PL 2019, c. 113, Pt. A, §2 (NEW).]

As used in this subsection, "enumerated Class D or Class E crime" means any Class D crime in chapter 9, any Class D or Class E crime in chapter 11, the Class D crimes described in sections 302 and 506-B and the Class D crimes described in sections 554, 555 and 758.

[PL 2019, c. 113, Pt. A, §2 (NEW).]

7. Modification of probation requirements authorized. During the period of probation specified in the sentence made pursuant to this section, and upon application of the person on probation or the person's probation officer, or upon the court's own motion, the court may, after a hearing upon notice to the probation officer and the person on probation, modify the requirements imposed by the court or a community reparations board, add further requirements authorized by section 1807 or relieve the person on probation of any requirement imposed by the court or a community reparations board that, in the court's opinion, imposes on the person an unreasonable burden. If the person on probation cannot meet a requirement imposed by the court or a community reparations board, the person shall bring a motion under this subsection.
[PL 2019, c. 113, Pt. A, §2 (NEW).]

8. Ex parte motion for modification by probation officer in advance of hearing. Notwithstanding subsection 7, the court may grant, ex parte, a motion brought by the probation officer of the person on probation to add further requirements if the court determines that all reasonable efforts have been made to give written or oral notice to the person on probation and the requirements are immediately necessary to protect the safety of an individual or the public. Any requirements added pursuant to an ex parte motion do not take effect until written notice of the requirements, along with written notice of the scheduled date, time and place when the court will hold a hearing on the added requirements, is given to the person on probation.
[PL 2019, c. 113, Pt. A, §2 (NEW).]

9. Conversion of probation to administrative release. Once the period of probation has commenced, on motion of the person on probation or the person's probation officer, or on the court's own motion, the court may at any time convert a period of probation for a Class D or Class E crime or a Class C crime under Title 29-A, section 2557-A to a period of administrative release. A conversion to administrative release may not be ordered unless notice of the motion is given to the probation officer and the attorney for the State. The provisions of subchapter 2 apply when probation is converted to administrative release. Conversion to administrative release in accordance with this subsection relieves the person on probation of any obligations imposed by the probation conditions.
[PL 2019, c. 113, Pt. A, §2 (NEW).]

10. Early termination of probation and discharge authorized. Once the period of probation has commenced, on motion of the person on probation or the person's probation officer, or on the court's own motion, the court may at any time terminate a period of probation and discharge the person at any time earlier than that provided in the sentence made pursuant to this section, if warranted by the conduct of the person. A termination and discharge may not be ordered unless notice of the motion is given to the probation officer and the attorney for the State. Termination and discharge in accordance with this subsection relieves the person on probation of any obligations imposed by the sentence of probation.
[PL 2019, c. 113, Pt. A, §2 (NEW).]

11. Justice or judge authorized to hear motions regarding probation. A motion and hearing pursuant to subsection 7, 8, 9 or 10 need not be before the justice or judge who originally imposed probation. Any justice or judge may initiate and hear a motion, and any justice or judge may hear a motion brought by the person on probation or the person's probation officer.
[PL 2019, c. 113, Pt. A, §2 (NEW).]

12. Termination of probation to prevent delay of consecutive term of imprisonment. Any court, in order to comply with section 1608, subsection 7, shall terminate a period of probation that would delay commencement of a consecutive unsuspended term of imprisonment.
[PL 2019, c. 113, Pt. A, §2 (NEW).]

SECTION HISTORY

PL 2019, c. 113, Pt. A, §2 (NEW).

§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.

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 2019, c. 113, Pt. A, §2 (NEW).]

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).

§1806. Wholly suspended term of imprisonment with probation

Unless prohibited pursuant to section 1802, subsection 1, paragraphs A to F, the court may sentence an individual to a term of imprisonment not to exceed the maximum term authorized for the crime, suspend the entire term of imprisonment and accompany the suspension with a period of probation not to exceed the maximum period authorized for the crime, to commence on the date the individual goes into actual execution of the sentence. [PL 2019, c. 113, Pt. A, §2 (NEW).]

SECTION HISTORY

PL 2019, c. 113, Pt. A, §2 (NEW).

§1807. Conditions of probation

1. Purpose of conditions. If the court imposes a sentencing alternative under section 1502 that includes a period of probation, it shall attach conditions of probation, as authorized by this section, as it considers to be reasonable and appropriate to assist the person to lead a law-abiding life, including, without exception, a condition of probation that the person refrain from criminal conduct. [PL 2019, c. 113, Pt. A, §2 (NEW).]

2. Specific conditions of probation authorized. As a condition of probation, the court in its sentence may require the person to:

A. Support the person's dependents and to meet the person's family responsibilities; [PL 2019, c. 113, Pt. A, §2 (NEW).]

B. Make restitution pursuant to chapter 69 to each victim of the person's crime, or to the county where the offense is prosecuted if the identity of the victim cannot be ascertained or if the victim voluntarily refuses the restitution. If the court orders as a condition of probation that the person forfeit and pay a specific amount of restitution, that order, as a matter of law, also constitutes the imposition of restitution pursuant to chapter 69 as a sentencing alternative and an additional order regarding restitution is unnecessary; [PL 2019, c. 113, Pt. A, §2 (NEW).]

C. Pursue and maintain approved employment or an approved occupation; [PL 2019, c. 113, Pt. A, §2 (NEW).]

D. Undergo, as an outpatient, available medical or psychiatric treatment, or to enter and remain, as a voluntary patient, in a specified institution when required for that purpose. Failure to comply with this condition is considered only as a violation of probation and may not, in itself, authorize involuntary treatment or hospitalization. The court may not order and the State may not pay for the person to attend a batterers' intervention program unless the program is certified under Title 19-A, section 4014; [PL 2019, c. 113, Pt. A, §2 (NEW).]

E. Pursue a prescribed secular course of study or vocational training; [PL 2019, c. 113, Pt. A, §2 (NEW).]

F. Refrain from frequenting specified places or consorting with specified persons; [PL 2019, c. 113, Pt. A, §2 (NEW).]

G. Refrain from possessing any firearm or other dangerous weapon; [PL 2019, c. 113, Pt. A, §2 (NEW).]

H. Remain within the jurisdiction of the court, unless permission to leave temporarily is granted in writing by the person's probation officer, and to notify the probation officer of any change in the person's address or employment; [PL 2019, c. 113, Pt. A, §2 (NEW).]

I. Refrain from drug use and use or excessive use of alcohol; [PL 2019, c. 113, Pt. A, §2 (NEW).]

J. Report as directed to the court or the person's probation officer, to answer all reasonable inquiries by the probation officer and to permit the probation officer to visit at reasonable times at the person's home or elsewhere; [PL 2019, c. 113, Pt. A, §2 (NEW).]

K. Pay any monetary penalty imposed by the court as part of the sentence; [PL 2019, c. 113, Pt. A, §2 (NEW).]

L. Perform specified work for the benefit of the State, a county, a municipality, a school administrative district, other public entity or a charitable institution; [PL 2019, c. 113, Pt. A, §2 (NEW).]

M. Participate in an electronic monitoring program, if available; or [PL 2019, c. 113, Pt. A, §2 (NEW).]

N. Satisfy any conditions reasonably related to the rehabilitation of the person or the public safety or security. [PL 2019, c. 113, Pt. A, §2 (NEW).]

[PL 2019, c. 113, Pt. A, §2 (NEW).]

3. Opportunity to address court regarding probation conditions; written statement required. The person must be given an opportunity to address the court on the conditions that are proposed to be attached and, after sentence, must be given a written statement setting forth the particular conditions on which the person is released on probation.

[PL 2019, c. 113, Pt. A, §2 (NEW).]

4. Findings or explanation required in certain cases when completion of batterers' intervention program is not ordered as a condition of probation. If an individual is convicted of a crime under chapter 9 or 13 or section 758 that the State pleads and proves was committed by the individual against a spouse, domestic partner or sexual partner; a former spouse, domestic partner or sexual partner; a victim with whom the individual is living or lived as a spouse; or a victim who is or was a dating partner of the individual and the court does not order as a condition of probation that the individual complete a batterers' intervention program certified pursuant to Title 19-A, section 4014, the court shall make findings on the record of the court's reasons for not ordering the individual to complete a batterers' intervention program. If a plea agreement submitted to the court in accordance with Rule 11A(b) of the Maine Rules of Unified Criminal Procedure does not contain a provision ordering the individual to complete a batterers' intervention program, the attorney for the State shall indicate, in a writing submitted to the court, the basis for the plea agreement's not including completion of a batterers' intervention program as a condition of probation. For purposes of this subsection, "dating partner" means a victim currently or formerly involved in dating the individual, whether or not the individual and the victim are or were sexual partners. For purposes of this subsection, "domestic partner" means one of 2 unmarried adults who are domiciled together under a long-term arrangement that evidences a commitment to remain responsible indefinitely for each other's welfare.

[PL 2019, c. 113, Pt. A, §2 (NEW).]

5. Condition of probation that includes psychiatric treatment or mental health counseling; notice by court to Department of Health and Human Services. Before imposing any condition of psychiatric outpatient or inpatient treatment or mental health counseling, the court may request that a report be submitted by an agent of the Department of Health and Human Services who has been designated pursuant to Title 34-B, section 1220 for the purpose of assessing the appropriateness of psychiatric treatment or mental health counseling for the individual and the availability of this treatment or counseling. Whether or not a report is requested, the court shall notify the designated agent of the Department of Health and Human Services when any conditions of probation are imposed that include psychiatric outpatient or inpatient treatment or mental health counseling. This notification must include the name and last known address of the individual placed on probation, the name and address of the attorney of record for that individual and the conditions of probation.

[PL 2019, c. 113, Pt. A, §2 (NEW).]

6. Supervision fee; determination of amount by court; failure to pay. The court shall attach as a condition of probation that the person pay, through the Department of Corrections, a supervision fee of between $10 and $50 per month, as determined by the court, for the term of probation. If the court does not set a supervision fee, the supervision fee is $10 per month. Notwithstanding the attachment of supervision fee conditions on more than one sentence, a person on probation on concurrent sentences is required to pay only one supervision fee. In determining whether to set an amount higher than $10 per month, the court shall take into account the financial resources of the person and the nature of the burden its payment imposes. A person may not be sentenced to imprisonment without probation solely for the reason the person is not able to pay the fee. When a person on probation fails to pay the supervision fee, the court may revoke probation as specified in section 1812, 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. The court, if it determines that revocation of probation is not warranted, shall issue a judgment for the total amount of the fee and shall issue an order attaching a specified portion of money received by or owed to the person on probation until the total amount of the fee has been paid. If the person makes this showing, the court may allow additional time for payment within the remaining period of probation or reduce the size of the fee to no less than $10 per month, but may not revoke the requirement to pay the fee unless the remaining period of probation is 30 days or less.
[PL 2019, c. 113, Pt. A, §2 (NEW).]

7. Electronic monitoring and substance testing fees; determination of amount by court; failure to pay; use of fees. Upon the request of the Department of Corrections, the court shall attach as a condition of probation that the person pay, through the department, an electronic monitoring fee, a substance testing fee or both, as determined by the court, for the term of probation. In determining the amount of the fees, the court shall take into account the financial resources of the person and the nature of the burden the payment imposes. A person may not be sentenced to imprisonment without probation solely for the reason the person is not able to pay the fees. When a person on probation fails to pay the fees, the court may revoke probation as specified in section 1812, 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. The court, if it determines that revocation of probation is not warranted, shall issue a judgment for the total amount of the fees and shall issue an order attaching a specified portion of money received by or owed to the person on probation until the total amount of the fees has been paid. If the person makes this showing, the court may allow additional time for payment within the remaining period of probation or reduce the size of the fees, but may not revoke the requirement to pay the fees unless the remaining period of probation is 30 days or less. Fees received from a person on probation must be deposited into the department's adult community corrections account, unless the department has required the person to pay fees directly to a provider of electronic monitoring, substance testing or other services. Funds from the adult community corrections account do not lapse and must be used to defray costs associated with the purchase and operation of electronic monitoring and substance testing programs.
[PL 2019, c. 113, Pt. A, §2 (NEW).]

8. Condition of probation that includes staying within jurisdiction of court; application fee; use of fees. Whenever the court requires as a condition of probation that the person remain within the jurisdiction of the court, unless permission to leave temporarily is granted in writing by the person's probation officer, the Department of Corrections may impose on a person applying for such permission an application fee of $25. The department may impose on a person an additional fee of $25 per month if permission is sought and granted to leave the jurisdiction of the court on a periodic basis. Permission to leave may not be denied or withdrawn solely because the person is not able to pay the application fee or the additional fee. When a person fails to pay a fee imposed under this subsection, the department may refuse to process the application or may withdraw permission to leave if the failure to pay is attributable to the person's willful refusal to pay or to a failure on the person's part to make a good faith

effort to obtain the funds required for the payment. Fees received from a person pursuant to this subsection must be deposited into the department's adult community corrections account, which does not lapse, and must be used to defray costs associated with processing the applications, including, but not limited to, the cost of materials, equipment, training for probation officers and administration, and for the department's share of the costs of extraditing persons on probation who are fugitives from justice.
[PL 2019, c. 113, Pt. A, §2 (NEW).]

SECTION HISTORY

PL 2019, c. 113, Pt. A, §2 (NEW).

§1808. Community reparations boards

1. Persons required to appear before board. If the court imposes a sentencing alternative that includes a period of probation, the court shall require as a condition of probation that the person appear before a community reparations board, referred to in this section as "the board," and abide by any requirement imposed by the board if:

A. The person has been sentenced to a suspended term of imprisonment with probation or a split sentence of imprisonment with probation the initial portion of which must be served in a county jail under section 1805; [PL 2019, c. 113, Pt. A, §2 (NEW).]

B. The person has not been convicted of a crime under chapter 11 or a crime of domestic violence; [PL 2019, c. 113, Pt. A, §2 (NEW).]

C. The Department of Corrections recommends that appearance before the board be required; and [PL 2019, c. 113, Pt. A, §2 (NEW).]

D. The court finds no circumstance that makes appearance inappropriate. [PL 2019, c. 113, Pt. A, §2 (NEW).]

[PL 2019, c. 113, Pt. A, §2 (NEW).]

2. Duties of person required to appear before board. A person required to appear before a community reparations board shall:

A. Cooperate with the preparation of the intake report to be submitted to the board; [PL 2019, c. 113, Pt. A, §2 (NEW).]

B. Appear before the board as directed by the person's probation officer; and [PL 2019, c. 113, Pt. A, §2 (NEW).]

C. Cooperate with the board. [PL 2019, c. 113, Pt. A, §2 (NEW).]

[PL 2019, c. 113, Pt. A, §2 (NEW).]

3. Powers of board. The powers of a community reparations board are limited to requiring the person to:

A. Pay restitution in accordance with chapter 69; [PL 2019, c. 113, Pt. A, §2 (NEW).]

B. Perform community service; [PL 2019, c. 113, Pt. A, §2 (NEW).]

C. Complete a prescribed course of counseling or education; [PL 2019, c. 113, Pt. A, §2 (NEW).]

D. Refrain from frequenting specified places or consorting with specified persons; [PL 2019, c. 113, Pt. A, §2 (NEW).]

E. Comply with reparative sanctions other than restitution, including, but not limited to, writing an apology to the victim and fulfilling crime-impact education measures; and [PL 2019, c. 113, Pt. A, §2 (NEW).]

F. Report to the board regarding compliance with the requirements of this subsection. [PL 2019, c. 113, Pt. A, §2 (NEW).]

[PL 2019, c. 113, Pt. A, §2 (NEW).]

4. Time limit on requirement imposed by board. A requirement imposed by a community reparations board may not extend longer than 6 months, except the requirement to pay restitution.

[PL 2019, c. 113, Pt. A, §2 (NEW).]

5. Violation. A person who fails to abide by the requirements of this section commits a violation of probation.

[PL 2019, c. 113, Pt. A, §2 (NEW).]

SECTION HISTORY

PL 2019, c. 113, Pt. A, §2 (NEW).

§1809. Commencement of probation revocation proceedings by arrest

1. Authority of probation officer. If a probation officer has probable cause to believe that a person on probation has violated a condition of that person's probation, that officer may arrest the person or cause the person to be arrested for the alleged violation. If the probation officer cannot, with due diligence, locate the person, the officer shall file a written notice of this fact with the court that placed the person on probation. Upon the filing of that written notice, the court shall issue a warrant for the arrest of that person.

[PL 2019, c. 113, Pt. A, §2 (NEW).]

2. Probable cause hearing; timing; evidence. A person arrested pursuant to subsection 1, with or without a warrant, must be given a probable cause hearing as soon as reasonably possible, but not later than on the 5th day after arrest, excluding Saturdays, Sundays and holidays. A probable cause hearing is not given if, within the 5-day period, the person is released from custody or is afforded an opportunity for a court hearing on the alleged violation. A probable cause hearing is not required if the person is charged with or convicted of a new offense and is incarcerated as a result of the pending charge or conviction.

A. Whenever a person arrested pursuant to subsection 1 is entitled to a probable cause hearing pursuant to this subsection, unless the person waives the right to the hearing, that hearing must be held at the initial appearance and may be held in the court located as near to the place where the violation is alleged to have taken place as is reasonable under the circumstances. If it is alleged that the person violated probation because of the commission of a new offense, the probable cause hearing is limited to the issue of identification if probable cause on the new offense has already been found by the District Court or by the Superior Court or the person has been indicted, has waived indictment or has been convicted. [PL 2019, c. 113, Pt. A, §2 (NEW).]

B. Evidence presented to establish probable cause may include affidavits and other reliable hearsay evidence as permitted by the court. [PL 2019, c. 113, Pt. A, §2 (NEW).]

C. If the court determines that there is not probable cause to believe that the person has violated a condition of probation, the court shall order the person's release. [PL 2019, c. 113, Pt. A, §2 (NEW).]

[PL 2019, c. 113, Pt. A, §2 (NEW).]

3. Failure to hold probable cause hearing within required time period. If a probable cause hearing is not held as required by subsection 2 within the time period specified in subsection 2, it is grounds for the person's release on personal recognizance pending further proceedings.

[PL 2019, c. 113, Pt. A, §2 (NEW).]

SECTION HISTORY

PL 2019, c. 113, Pt. A, §2 (NEW).

§1810. Commencement of probation revocation proceedings by summons

1. Authority of probation officer. If a probation officer has probable cause to believe that a person on probation has violated a condition of probation, that officer may deliver to that person, or cause to be delivered to that person, a summons ordering that person to appear for a court hearing on the alleged violation.
[PL 2019, c. 113, Pt. A, §2 (NEW).]

2. Contents of summons; probation officer to file motion for revocation. The summons delivered pursuant to subsection 1 must include the signature of the probation officer; a brief statement of the alleged violation; the time and place of the alleged violation; and the time, place and date the person is to appear in court or a statement that the court will notify the person of the time, place and date to appear. As soon as practical after service of the summons, the probation officer shall file with the court a motion for revocation of probation that sets forth the facts underlying the alleged violation.
[PL 2019, c. 113, Pt. A, §2 (NEW).]

3. Initial appearance. A person appearing on a motion to revoke probation pursuant to a summons must be given an initial appearance as provided in section 1811, subsection 4.
[PL 2019, c. 113, Pt. A, §2 (NEW).]

4. Failure to appear. If the person fails to appear in court after having been served with a summons, the court may issue a warrant for the arrest of the person. After arrest, the person must be given a probable cause hearing as provided in section 1809, subsection 2 and an initial appearance as provided in section 1811, subsection 3.
[PL 2019, c. 113, Pt. A, §2 (NEW).]

SECTION HISTORY

PL 2019, c. 113, Pt. A, §2 (NEW).

§1811. Initial proceedings on probation violation; filing of motion; initial appearance

1. Timing of motion for probation revocation. A motion for probation revocation, which first must be approved by the prosecuting attorney, must be filed within 3 days, excluding Saturdays, Sundays and holidays, of the arrest of a person on probation pursuant to section 1809.
[PL 2019, c. 113, Pt. A, §2 (NEW).]

2. Contents of motion. The motion must set forth the facts underlying the alleged violation and, unless the person is to be given a probable cause hearing at the initial appearance as provided in section 1809, must be accompanied by a copy of the summons delivered to the person.
[PL 2019, c. 113, Pt. A, §2 (NEW).]

3. Timing of initial appearance on motion receipt; copy of motion to person on probation. Upon receipt of a motion for revocation of probation with respect to a person arrested pursuant to section 1809 or section 1810, subsection 4 who is not sooner released, the court shall provide the person with an initial appearance on the revocation of probation within 5 days after the arrest, excluding Saturdays, Sundays and holidays. A copy of the motion must be furnished to the person prior to or at the initial appearance.
[PL 2019, c. 113, Pt. A, §2 (NEW).]

4. Procedure at initial appearance. At the initial appearance, the court shall advise the person of the contents of the motion, the right to a hearing on the motion, the right to be represented by counsel at a hearing and the right to appointed counsel. If the person cannot afford counsel, the court shall appoint counsel for the person. The court shall ask the person to admit or deny the alleged violation. If the person refuses to admit or deny, a denial must be entered. In the case of a denial, the court shall set the motion for hearing and may commit the person, with or without bail, pending hearing. If the

person is committed without bail pending hearing, the date of the hearing must be set no later than 45 days from the date of the initial appearance.
[PL 2019, c. 113, Pt. A, §2 (NEW).]

5. Bail determination. In deciding whether to set bail under this section and in setting the kind and amount of that bail, the court must be guided by the standards of post-conviction bail in Title 15, section 1051, subsection 2-A. Appeal is governed by Title 15, section 1051, subsections 5 and 6. Bail set under this section is also governed by the sureties and other forms of bail provisions in Title 15, chapter 105-A, subchapter 4 and the enforcement provisions in Title 15, chapter 105-A, subchapter 5, articles 1 and 3, including the appeal provisions in Title 15, section 1099-A, subsection 2.
[PL 2019, c. 113, Pt. A, §2 (NEW).]

6. Effect of failure to meet time limits. Failure to comply with the time limits set forth in this section is not grounds for dismissal of a motion for probation revocation but may be grounds for the release of the person on probation on personal recognizance pending further proceedings.
[PL 2019, c. 113, Pt. A, §2 (NEW).]

SECTION HISTORY

PL 2019, c. 113, Pt. A, §2 (NEW).

§1812. Court hearing on probation revocation

1. Place of hearing. The hearing on a motion to revoke probation must be held in the court that sentenced the person to probation in either the county or division in which the person resides or is incarcerated, unless the court orders otherwise in the interests of justice. A motion for revocation of probation need not be heard by the justice or judge who originally imposed probation, but may be heard by any justice or judge.
[PL 2019, c. 113, Pt. A, §2 (NEW).]

2. Hearing procedure. If a hearing is held, the person on probation 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 cannot afford counsel, the court shall appoint counsel for the person. Assignment of counsel, to the extent not covered in this subsection, and withdrawal of counsel must be in accordance with the Maine Rules of Unified Criminal Procedure.
[PL 2019, c. 113, Pt. A, §2 (NEW).]

3. Commission of new crime while on probation. When the alleged violation constitutes a crime for which the person on probation has not been convicted, the court may revoke probation if it finds by a preponderance of the evidence that the person committed the crime. If the person is subsequently convicted of the crime, or any other crime or crimes arising out of the same conduct, sentencing is subject to the requirements of section 1608. If concurrent terms of imprisonment are imposed and the terms do not commence on the same date, any time served as a result of the probation revocation must be deducted from the time the person is required to serve as a result of the new conviction.
[PL 2019, c. 113, Pt. A, §2 (NEW).]

4. Failure to comply with requirement of probation. If the alleged violation does not constitute a crime and the court finds by a preponderance of the evidence that the person on probation has inexcusably failed to comply with a requirement imposed as a condition of probation, it may revoke probation.
[PL 2019, c. 113, Pt. A, §2 (NEW).]

5. Conviction for new crime while on probation. If a person on probation is convicted of a new crime during the period of probation, the court may sentence that person for the crime and revoke probation. If the person has been sentenced for the new crime and probation revocation proceedings are subsequently commenced, the court that conducts the revocation hearing may revoke probation. Sentencing for the multiple offenses is subject to section 1608. If concurrent terms of imprisonment are

imposed and the terms do not commence on the same date, any time served as a result of the new conviction must be deducted from the time the person is required to serve as a result of the probation revocation.
[PL 2019, c. 113, Pt. A, §2 (NEW).]

6. Authority of court finding violation of probation. Upon a finding of a violation of probation, the court may vacate all, part or none of the suspension of execution as to imprisonment or fine specified when probation was granted, considering the nature of the violation and the reasons for granting probation. The remaining portion of the sentence for which suspension of execution is not vacated upon the revocation of probation remains suspended and is subject to revocation at a later date. During the service of that portion of the sentence imposed for which the suspension of execution was vacated upon revocation, the running of the period of probation must be interrupted and resumes again upon release. If the court finds a violation of probation but vacates none of the suspended sentence, the running of the period of probation resumes upon entry of that final disposition. The court may nevertheless revoke probation and vacate the suspension of execution as to the remainder of the suspended sentence or a portion thereof for any criminal conduct committed during the service of that portion of the sentence for which the suspension of execution was vacated upon revocation.
[PL 2019, c. 113, Pt. A, §2 (NEW).]

7. Tolling of period of probation; conditions of probation continue in effect. The running of the period of probation is tolled upon either the delivery of the summons, the filing of the written notice with the court that the person cannot be located or the arrest of the person. If the motion is dismissed or withdrawn, or if the court finds no violation of probation, the running of the period of probation is deemed not to have been tolled. The conditions of probation continue in effect during the tolling of the running of the period of probation, and any violation of a condition subjects the person to a revocation of probation pursuant to the provisions of this subchapter.
[PL 2019, c. 113, Pt. A, §2 (NEW).]

8. Disposition agreement by parties in return for admission of probation violation. If the attorney for the State and the attorney for the person on probation or the person on probation reach agreement that, in return for an admission of a violation of probation, the attorney for the State will dismiss other charges or the attorney for the State will not oppose the requested disposition requested by the person or the attorney for the State will recommend a particular disposition or both sides will recommend a particular disposition, and the court at the time of disposition intends to enter a disposition less favorable to the person than that recommended, the court shall on the record:

A. Inform the parties of this intention; [PL 2019, c. 113, Pt. A, §2 (NEW).]

B. Advise the person personally in open court that the court is not bound by the recommendation; [PL 2019, c. 113, Pt. A, §2 (NEW).]

C. Advise the person that if the person does not withdraw the admission, the disposition of the motion will be less favorable to the person than that recommended; and [PL 2019, c. 113, Pt. A, §2 (NEW).]

D. Give the person the opportunity to withdraw the admission. [PL 2019, c. 113, Pt. A, §2 (NEW).]

The court shall, if possible, inform the person of the intended disposition.
[PL 2019, c. 113, Pt. A, §2 (NEW).]

9. Deduction of time for detention pending revocation proceeding. Whenever a person is detained in any correctional facility, mental health institute or county jail pending a probation revocation proceeding, and not in execution of any other sentence of confinement, that period of detention must be deducted from the time the person is required to serve under that portion of the sentence for which the suspension of execution was vacated as a result of the probation revocation. A

person who is simultaneously detained for conduct for which the person receives a consecutive term of imprisonment is not entitled to receive a day-for-day deduction from the consecutive term of imprisonment for the period of simultaneous detention except for any period of detention that is longer than the prior term of imprisonment.
[PL 2019, c. 113, Pt. A, §2 (NEW).]

10. Respecification of place of imprisonment following vacation of suspension of sentence. Whenever a previously suspended sentence of imprisonment for a Class A, Class B or Class C crime is vacated, in whole or in part, as the result of a probation revocation, the court must respecify the place of imprisonment for both the portion required to be served and any remaining suspended portion, if necessary, to carry out the intent of section 1805, subsection 1, paragraph E.
[RR 2019, c. 2, Pt. A, §20 (COR).]

11. Effect of vacating suspension while person in execution of unsuspended portion of sentence. If a probation revocation proceeding results in the court vacating a part of the suspension of execution as to imprisonment while the person is in execution of the initial unsuspended portion of the sentence, the portion of imprisonment to be served as a result of the vacating commences only after the initial unsuspended portion of imprisonment has been fully served. If separate probation revocation proceedings result in the vacating of 2 or more parts of the suspension of execution as to imprisonment on the same sentence, the portions to be served must be served successively.
[PL 2019, c. 113, Pt. A, §2 (NEW).]

SECTION HISTORY

PL 2019, c. 113, Pt. A, §2 (NEW). RR 2019, c. 2, Pt. A, §20 (COR).

§1813. Review

1. Discretionary appeal to Law Court. Review of a revocation of probation pursuant to section 1812 must be by appeal to the Law Court. A person whose probation is revoked may not appeal 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.
[PL 2019, c. 113, Pt. A, §2 (NEW).]

2. Assignment and withdrawal of counsel. Assignment and withdrawal of counsel for an appeal under this section must be in accordance with the Maine Rules of Unified Criminal Procedure.
[PL 2019, c. 113, Pt. A, §2 (NEW).]

SECTION HISTORY

PL 2019, c. 113, Pt. A, §2 (NEW).

§1814. Additional conditions in lieu of probation revocation proceedings

Whenever a probation officer has probable cause to believe that a person under the supervision of that probation officer has violated a condition of probation but the violation does not constitute a crime, the probation officer, instead of commencing a probation revocation proceeding under section 1809, may offer to the person the option of adding one or more of the following conditions to the person's probation: [PL 2019, c. 113, Pt. A, §2 (NEW).]

1. Participation in public restitution program or treatment program. The person will participate in a public restitution program or treatment program administered through a correctional facility or county jail; or
[PL 2019, c. 113, Pt. A, §2 (NEW).]

2. Residence at correctional facility or county jail. The person will reside at a correctional facility or county jail for a period of time not to exceed 90 days.
[PL 2019, c. 113, Pt. A, §2 (NEW).]

If the person agrees in writing to the additional conditions under subsection 1 or 2, the conditions must be implemented. If the person does not agree or if the person fails to fulfill the additional conditions to the satisfaction of the probation officer, the probation officer may commence probation revocation proceedings under section 1809 or 1810 for the violation that the probation officer had probable cause to believe occurred. If the person fulfills the additional conditions to the satisfaction of the probation officer, the probation officer shall so notify the person in writing and the probation officer may not commence probation revocation proceedings for the violation that the probation officer had probable cause to believe occurred. [PL 2019, c. 113, Pt. A, §2 (NEW).]

SECTION HISTORY

PL 2019, c. 113, Pt. A, §2 (NEW).

SUBCHAPTER 2

ADMINISTRATIVE RELEASE

§1851. Eligibility for sentencing alternative that includes period of administrative release; exceptions

The court may sentence a person who has been convicted of a Class D or Class E crime or a Class C crime under Title 29-A, former section 2557, section 2557-A or section 2558 to a sentencing alternative under section 1502, subsection 2, paragraphs I, J and K for an individual and section 1502, subsection 7, paragraph E for an organization, unless: [PL 2019, c. 113, Pt. A, §2 (NEW).]

1. Sentencing alternative includes probation. The court sentences the person to a sentencing alternative under section 1502 that includes a period of probation; or
[PL 2019, c. 113, Pt. A, §2 (NEW).]

2. Sentencing alternative diminishes gravity of crime. The court finds that such a sentence would diminish the gravity of the crime for which that person was convicted.
[PL 2019, c. 113, Pt. A, §2 (NEW).]

SECTION HISTORY

PL 2019, c. 113, Pt. A, §2 (NEW).

§1852. Period of administrative release

1. Time limit. A period of administrative release imposed pursuant to this subchapter may not exceed one year.
[PL 2019, c. 113, Pt. A, §2 (NEW).]

2. Modification of requirements. During the period of administrative release and upon application of a person placed on administrative release or of the attorney for the State or upon the court's own motion, the court, after notice to the attorney for the State and the person and a hearing, may modify the requirements imposed by the court, add further requirements or release the person of any requirement imposed by the court that, in the court's opinion, imposes on the person an unreasonable burden.
[PL 2019, c. 113, Pt. A, §2 (NEW).]

3. Inability to meet requirement; duty on person to bring motion. During the period of administrative release, if the person cannot meet a requirement of administrative release imposed by the court, the person shall bring a motion pursuant to subsection 2.
[PL 2019, c. 113, Pt. A, §2 (NEW).]

4. Termination by court. On application of the attorney for the State or of the person placed on administrative release or on the court's own motion, the court may terminate a period of administrative release and discharge the person at any time earlier than that provided in the sentence made pursuant to subsection 1 if warranted by the conduct of the person. The court may not order a termination of the period of administrative release and discharge upon the motion of the person placed on administrative release unless notice of the motion is given to the attorney for the State by the person placed on administrative release. The termination of the period of administrative release and discharge relieves the person placed on administrative release of any obligations imposed by the sentence of administrative release.
[PL 2019, c. 113, Pt. A, §2 (NEW).]

5. Termination to prevent delay of consecutive term of imprisonment. The court, in order to comply with section 1608, subsection 7, shall terminate a period of administrative release that would delay commencement of a consecutive unsuspended term of imprisonment.
[PL 2019, c. 113, Pt. A, §2 (NEW).]

SECTION HISTORY

PL 2019, c. 113, Pt. A, §2 (NEW).

§1853. Suspended sentence with administrative release

1. Suspension of term of imprisonment accompanied by administrative release. The court may sentence a person to a term of imprisonment not to exceed the maximum term authorized for a Class D or Class E crime or the Class C crime under Title 29-A, former section 2557, section 2557-A or section 2558, suspend the term of imprisonment in whole or in part and accompany the suspension with a period of administrative release.
[PL 2019, c. 113, Pt. A, §2 (NEW).]

2. Suspension of fine accompanied by administrative release. The court may sentence a person to a fine, not to exceed the maximum fine authorized for a Class D or Class E crime or the Class C crime under Title 29-A, former section 2557, section 2557-A or section 2558, suspend the fine in whole or in part and accompany the suspension with a period of administrative release.
[PL 2019, c. 113, Pt. A, §2 (NEW).]

SECTION HISTORY

PL 2019, c. 113, Pt. A, §2 (NEW).

§1854. Requirements of administrative release

If the court imposes a suspended sentence with administrative release under section 1853, the court shall attach requirements of administrative release, as authorized by this section, as the court determines to be reasonable and appropriate to help ensure accountability and rehabilitation of the person. [PL 2019, c. 113, Pt. A, §2 (NEW).]

1. Mandatory requirements. The court-imposed requirements of administrative release must include a requirement that the person refrain from criminal conduct and that the person pay all assessments, surcharges, other fees and costs required by law.
[PL 2019, c. 113, Pt. A, §2 (NEW).]

2. Discretionary requirements. In addition to the requirements in subsection 1, the court in its sentence may require the person:

A. To 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 administrative release. 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. When a person fails to pay the administrative supervision fee, the court may revoke administrative release as provided in sections 1855 and 1856 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; [PL 2019, c. 113, Pt. A, §2 (NEW).]

B. To pay a fine imposed by the court as part of the sentence; [PL 2019, c. 113, Pt. A, §2 (NEW).]

C. To make restitution to each victim of the crime imposed by the court as part of the sentence; [PL 2019, c. 113, Pt. A, §2 (NEW).]

D. To perform community service work imposed by the court as part of the sentence; or [PL 2019, c. 113, Pt. A, §2 (NEW).]

E. To satisfy any requirement reasonably related to helping ensure the accountability and rehabilitation of the person. [PL 2019, c. 113, Pt. A, §2 (NEW).]

[PL 2019, c. 113, Pt. A, §2 (NEW).]

3. Opportunity to address court regarding requirements; written statement of requirements to be provided. The person must be given an opportunity to address the court on the requirements that are proposed to be attached pursuant to subsections 1 and 2 and must, after the sentencing, be given a written statement setting forth the specific requirements on which the person is being administratively released.

[PL 2019, c. 113, Pt. A, §2 (NEW).]

SECTION HISTORY

PL 2019, c. 113, Pt. A, §2 (NEW).

§1855. Commencement of administrative release revocation proceeding

1. Motion to revoke administrative release. If during the period of administrative release the attorney for the State has probable cause to believe that the person placed on administrative release has violated a requirement of administrative release, the attorney for the State may file a motion with the court seeking to revoke administrative release. The motion must set forth the facts underlying the alleged violation.

[PL 2019, c. 113, Pt. A, §2 (NEW).]

2. Summons. A summons may be used to order a person who was placed on administrative release to appear on a motion to revoke that person's administrative release.

[PL 2019, c. 113, Pt. A, §2 (NEW).]

3. Initial appearance. A person placed on administrative release appearing on a motion to revoke administrative release pursuant to a summons must be afforded an initial appearance as provided in section 1811, subsection 4.

[PL 2019, c. 113, Pt. A, §2 (NEW).]

4. Failure to appear following service of summons. If a person placed on administrative release fails to appear in court after having been served with a summons, the court may issue a warrant for the arrest of the person. After arrest of the person, the court shall afford the person an initial appearance as provided in section 1811, subsection 4; if the person is retained in custody, section 1811, subsection 3 also applies.

[PL 2019, c. 113, Pt. A, §2 (NEW).]

5. Arrest of person for violation of requirement of administrative release; copy of motion to be furnished; timing of initial appearance. If during the period of administrative release the attorney for the State has probable cause to believe that the person placed on administrative release has violated a requirement of administrative release, 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 (15). The court shall provide the person with an initial appearance on

the revocation of administrative release within 5 days after arrest unless the person is released before that. A copy of the motion must be furnished to the person prior to or at the initial appearance. The initial appearance is governed by section 1811, subsection 4. Bail is governed by section 1811, subsections 5 and 6.
[PL 2019, c. 113, Pt. A, §2 (NEW).]

SECTION HISTORY

PL 2019, c. 113, Pt. A, §2 (NEW).

§1856. Court hearing on administrative release revocation

The hearing on a motion to revoke administrative release is governed by section 1812. [PL 2019, c. 113, Pt. A, §2 (NEW).]

SECTION HISTORY

PL 2019, c. 113, Pt. A, §2 (NEW).

§1857. Review

Review of a revocation of administrative release pursuant to section 1856 must be by appeal, as provided under section 1813. [PL 2019, c. 113, Pt. A, §2 (NEW).]

SECTION HISTORY

PL 2019, c. 113, Pt. A, §2 (NEW).

SUBCHAPTER 3

SUPERVISED RELEASE FOR SEX OFFENDERS

§1881. Inclusion of period of supervised release after imprisonment

1. Mandatory imposition of supervised release. If a person is convicted of gross sexual assault with a person who has not yet attained 12 years of age, in violation of section 253, subsection 1, paragraph C, the court, in addition to imposing as part of the sentence a definite term of imprisonment in accordance with section 253-A, subsection 2, shall impose as part of the sentence a period of supervised release of up to life to immediately follow that imprisonment. The period of supervised release commences on the date the person is released from confinement pursuant to section 2314 and must include the best available monitoring technology for the full period of supervised release.
[PL 2019, c. 113, Pt. A, §2 (NEW).]

2. Discretionary imposition of supervised release. If a person is convicted of gross sexual assault in violation of any provision of section 253 other than section 253, subsection 1, paragraph C, the court, if it imposes as part of the sentence a definite term of imprisonment that does not include a period of probation, also may impose as part of the sentence a period of supervised release to immediately follow that imprisonment. The period of supervised release commences on the date the person is released from confinement pursuant to section 2314.

If a person has been convicted of violating any provision of section 253 other than section 253, subsection 1, paragraph C, the authorized period of supervised release is:

A. Any period of years for a person sentenced as a repeat sexual assault offender pursuant to section 253-A, subsection 1; and [PL 2019, c. 113, Pt. A, §2 (NEW).]

B. For a person not sentenced under section 253-A, subsection 1 or 2, a period not to exceed 10 years for a Class A violation of section 253 and a period not to exceed 6 years for a Class B or Class C violation of section 253. [PL 2019, c. 113, Pt. A, §2 (NEW).]

[PL 2019, c. 113, Pt. A, §2 (NEW).]

3. Modification of requirements. During the period of supervised release specified in the sentence made pursuant to subsections 1 and 2, and upon application of a person on supervised release or the person's probation officer, or upon the court's own motion, the court, after notice to the probation officer and the person on supervised release and a hearing, may modify the requirements imposed by the court, add further requirements authorized by section 1882 or relieve the person on supervised release of any requirement imposed by the court that, in its opinion, imposes on the person an unreasonable burden.
[PL 2019, c. 113, Pt. A, §2 (NEW).]

4. Ex parte modification of requirements for immediate necessity. Notwithstanding subsection 3, the court may grant, ex parte, a motion brought by the probation officer of the person on supervised release to add further requirements if the court determines that all reasonable efforts have been made to give written or oral notice to the person on supervised release and the requirements are immediately necessary to protect the safety of an individual or the public. Any requirements added pursuant to an ex parte motion do not take effect until written notice of the requirements, along with written notice of the scheduled date, time and place when the court will hold a hearing on the added requirements, is given to the person on supervised release.
[PL 2019, c. 113, Pt. A, §2 (NEW).]

5. Termination by court. On application of the person on supervised release or the person's probation officer, or on the court's own motion, and if warranted by the conduct of the person, the court may terminate a period of supervised release and discharge the person at any time earlier than that provided in the sentence made pursuant to subsections 1 and 2. A termination and discharge may not be ordered unless notice of the motion is given to the probation officer and the attorney for the State. A termination and discharge relieves the person on supervised release of any obligations imposed by the sentence of supervised release.
[PL 2019, c. 113, Pt. A, §2 (NEW).]

6. Termination to prevent delay of consecutive term of imprisonment. The court, in order to comply with section 1608, subsection 7, shall terminate a period of supervised release that would delay commencement of a consecutive unsuspended term of imprisonment.
[PL 2019, c. 113, Pt. A, §2 (NEW).]

7. Revoked period of supervised release to be served in prison. The court may revoke a period of supervised release pursuant to section 1883 for any ground specified in subsection 8. If the court revokes a period of supervised release, the court shall require the person to serve time in prison under the custody of the Department of Corrections. This time in prison may equal all or part of the period of supervised release, without credit for time served on post-release supervision. The remaining portion of the period of supervised release that is not required to be served in prison, if any, may not run during the time in prison and must resume again after the person's release and is subject to revocation at a later date.
[PL 2019, c. 113, Pt. A, §2 (NEW).]

8. Grounds for revocation. The court may revoke a period of supervised release for:

A. A violation of supervised release; [PL 2019, c. 113, Pt. A, §2 (NEW).]

B. Criminal conduct committed during the term of imprisonment; or [PL 2019, c. 113, Pt. A, §2 (NEW).]

C. Refusal during the term of imprisonment to actively participate, when requested to do so by the Department of Corrections, in a sex offender treatment program in accordance with the expectations and judgment of the treatment providers. [PL 2019, c. 113, Pt. A, §2 (NEW).]

[PL 2019, c. 113, Pt. A, §2 (NEW).]

SECTION HISTORY

PL 2019, c. 113, Pt. A, §2 (NEW).

§1882. Conditions of supervised release

If the court imposes a sentence that includes a period of supervised release, it shall set conditions of supervised release. The conditions of release that apply to probation under section 1807 apply to conditions of supervised release. The court may also set conditions of supervised release that it determines to be reasonable and appropriate to manage the person's behavior. [PL 2019, c. 113, Pt. A, §2 (NEW).]

SECTION HISTORY

PL 2019, c. 113, Pt. A, §2 (NEW).

§1883. Revocation procedures

The procedures, rights and responsibilities that apply to probation revocation under sections 1809 to 1812, including bail under section 1811, subsections 5 and 6 and appellate review of revocation under section 1813, apply to revocation of supervised release. [PL 2019, c. 113, Pt. A, §2 (NEW).]

SECTION HISTORY

PL 2019, c. 113, Pt. A, §2 (NEW).

SUBCHAPTER 4

DEFERRED DISPOSITION

§1901. Eligibility for deferred disposition

A person who has pleaded 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. [PL 2019, c. 113, Pt. A, §2 (NEW).]

SECTION HISTORY

PL 2019, c. 113, Pt. A, §2 (NEW).

§1902. Deferred disposition

1. Authority of court to order deferment and impose requirements; administrative supervision fee. Following the acceptance of a plea of guilty for a crime for which a person is eligible for a deferred disposition under section 1901, 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.
[PL 2019, c. 113, Pt. A, §2 (NEW).]

2. Modification of requirements. 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.
[PL 2019, c. 113, Pt. A, §2 (NEW).]

3. Inability to meet requirement; duty on person to bring motion. 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.
[PL 2019, c. 113, Pt. A, §2 (NEW).]

4. Determination of date of conviction; bail. For purposes of a deferred disposition, a person is deemed to have been convicted when the court imposes the sentence. Notwithstanding Title 15, chapter 105-A, subchapter 3, prior to sentence imposition, preconviction bail applies to the person.
[PL 2019, c. 113, Pt. A, §2 (NEW).]

5. Preferred disposition in prosecution for possession of schedule W drug. 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.
[PL 2019, c. 113, Pt. A, §2 (NEW).]

6. Preferred disposition in prosecution for engaging in prostitution. A deferred disposition is a preferred disposition in a prosecution for engaging in prostitution under section 853-A, subsection 1, paragraph B.
[RR 2019, c. 2, Pt. A, §21 (COR).]

SECTION HISTORY

PL 2019, c. 113, Pt. A, §2 (NEW). PL 2019, c. 316, §2 (AMD). RR 2019, c. 2, Pt. A, §21 (COR).

§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).

§1904. Limited review by appeal

A person may not 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. [PL 2019, c. 113, Pt. A, §2 (NEW).]

SECTION HISTORY

PL 2019, c. 113, Pt. A, §2 (NEW).

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