

## CHAPTER 61

### GENERAL SENTENCING PROVISIONS

#### §1501. Purposes

The general purposes of the provisions of this Part are to: [PL 2019, c. 113, Pt. A, §2 (NEW).]

**1. Prevent crime.** Prevent crime through the deterrent effect of sentences, the rehabilitation of persons and the restraint of individuals when required in the interest of public safety; [PL 2019, c. 113, Pt. A, §2 (NEW).]

**2. Encourage restitution.** Encourage restitution in all cases in which the victim can be compensated and other purposes of sentencing can be appropriately served; [PL 2019, c. 113, Pt. A, §2 (NEW).]

**3. Minimize correctional experiences.** Minimize correctional experiences that serve to promote further criminality; [PL 2019, c. 113, Pt. A, §2 (NEW).]

**4. Provide notice of nature of sentences that may be imposed.** Give fair warning of the nature of the sentences that may be imposed on the conviction of a crime; [PL 2019, c. 113, Pt. A, §2 (NEW).]

**5. Eliminate inequalities in sentences.** Eliminate inequalities in sentences that are unrelated to legitimate criminological goals; [PL 2019, c. 113, Pt. A, §2 (NEW).]

**6. Encourage just individualization of sentences.** Encourage differentiation among persons with a view to a just individualization of sentences; [PL 2019, c. 113, Pt. A, §2 (NEW).]

**7. Elicit cooperation of individuals through correctional programs.** Promote the development of correctional programs that elicit the cooperation of convicted individuals; [PL 2019, c. 113, Pt. A, §2 (NEW).]

**8. Permit sentences based on factors of crime committed.** Permit sentences that do not diminish the gravity of offenses, with reference to the factors, among others, of:

A. The age of the victim, particularly of a victim of an advanced age or of a young age who has a reduced ability to self-protect or who suffers more significant harm due to age; [PL 2021, c. 170, §1 (AMD).]

B. The selection by the person of the victim or of the property that was damaged or otherwise affected by the crime because of the race, color, religion, sex, ancestry, national origin, physical or mental disability, sexual orientation, gender identity or homelessness of the victim or of the owner or occupant of that property; and [PL 2021, c. 366, §26 (AMD).]

C. The discriminatory motive of the person in making a false public alarm or report or an aggravated false public alarm in violation of section 509; and [PL 2023, c. 430, §2 (AMD).]  
[PL 2023, c. 430, §2 (AMD).]

**9. Recognize domestic violence and certified domestic violence intervention programs.** Recognize domestic violence as a serious crime against the individual and society and to recognize domestic violence intervention programs certified pursuant to Title 19-A, section 4116 as the most appropriate and effective community intervention in cases involving domestic violence. [PL 2021, c. 647, Pt. B, §33 (AMD); PL 2021, c. 647, Pt. B, §65 (AFF).]

## SECTION HISTORY

PL 2019, c. 113, Pt. A, §2 (NEW). PL 2021, c. 170, §1 (AMD). PL 2021, c. 174, §1 (AMD). PL 2021, c. 366, §26 (AMD). PL 2021, c. 647, Pt. B, §33 (AMD). PL 2021, c. 647, Pt. B, §65 (AFF). PL 2023, c. 430, §2 (AMD).

**§1502. Authorized sentences**

**1. Sentences imposed on individuals and organizations.** Every person convicted of a crime must be sentenced in accordance with the provisions of this Part.  
[PL 2019, c. 113, Pt. A, §2 (NEW).]

**2. Sentencing alternatives for individuals.** The court shall sentence an individual convicted of a crime to at least one of the following sentencing alternatives:

- A. Unconditional discharge as authorized by chapter 73; [PL 2019, c. 113, Pt. A, §2 (NEW).]
- B. A split sentence of imprisonment with probation as authorized by chapter 67, subchapter 1; [PL 2019, c. 113, Pt. A, §2 (NEW).]
- C. A fine, suspended in whole or in part, with, at the court's discretion, probation as authorized by chapter 67, subchapter 1; [PL 2019, c. 113, Pt. A, §2 (NEW).]
- D. A suspended term of imprisonment with probation as authorized by chapter 67, subchapter 1; [PL 2019, c. 113, Pt. A, §2 (NEW).]
- E. A term of imprisonment as authorized by chapter 63; [PL 2019, c. 113, Pt. A, §2 (NEW).]
- F. A fine as authorized by chapter 65, subchapter 1, which may be imposed in addition to the sentencing alternatives in paragraphs B, D, E, G, H, J, K and L; [PL 2019, c. 113, Pt. A, §2 (NEW).]
- G. [PL 2021, c. 591, §1 (RP).]
- H. A specified number of hours of community service work as authorized by chapter 71; [PL 2019, c. 113, Pt. A, §2 (NEW).]
- I. A fine, suspended in whole or in part, with, at the court's discretion, administrative release as authorized by chapter 67, subchapter 2; [PL 2019, c. 113, Pt. A, §2 (NEW).]
- J. A suspended term of imprisonment with administrative release as authorized by chapter 67, subchapter 2; [PL 2019, c. 113, Pt. A, §2 (NEW).]
- K. A split sentence of imprisonment with administrative release as authorized by chapter 67, subchapter 2; or [PL 2019, c. 113, Pt. A, §2 (NEW).]
- L. A term of imprisonment followed by a period of supervised release as authorized by chapter 67, subchapter 3. [PL 2019, c. 113, Pt. A, §2 (NEW).]  
[PL 2021, c. 591, §1 (AMD).]

**3. Deferred disposition.** The court may accept a plea agreement between the attorney for the State and the defendant that provides for an agreed-upon authorized sentencing alternative the imposition of which is deferred in accordance with chapter 67, subchapter 4.  
[PL 2019, c. 113, Pt. A, §2 (NEW).]

**4. Restitution by individuals.** The court may require an individual convicted of a crime to make restitution as authorized by chapter 69. Subject to the limitations of chapter 69, restitution may be imposed as a condition of probation or may be imposed in addition to any other sentencing alternative included within subsection 2 with the exception of an unconditional discharge.  
[PL 2019, c. 113, Pt. A, §2 (NEW).]

**5. Consideration of sentencing alternative involving fine for individuals.** Except when specifically precluded, in choosing the appropriate punishment for an individual convicted of a crime, the court shall consider imposing a sentencing alternative involving a fine either in conjunction with or in lieu of imposing a sentencing alternative involving imprisonment.

[PL 2019, c. 113, Pt. A, §2 (NEW).]

**6. Consideration of substance use disorder treatment for individuals convicted of Class D drug offense.** In choosing the appropriate punishment for an individual convicted of a Class D drug offense, the court shall consider imposing a sentencing alternative that includes medical and mental health treatment for substance use disorder, when appropriate.

[PL 2019, c. 113, Pt. A, §2 (NEW).]

**7. Sentencing alternatives for organizations.** The court shall sentence an organization convicted of a crime to at least one of the following sentencing alternatives:

A. Unconditional discharge as authorized by chapter 73; [PL 2019, c. 113, Pt. A, §2 (NEW).]

B. A fine, suspended in whole or in part, with probation as authorized by chapter 67, subchapter 1; [PL 2019, c. 113, Pt. A, §2 (NEW).]

C. A fine as authorized by chapter 65, subchapter 1; [PL 2019, c. 113, Pt. A, §2 (NEW).]

D. A sanction authorized by section 1503, which may be imposed in addition to the sentencing alternatives in paragraphs B, C and E; or [PL 2019, c. 113, Pt. A, §2 (NEW).]

E. A fine, suspended in whole or in part, with administrative release as authorized by chapter 67, subchapter 2. [PL 2019, c. 113, Pt. A, §2 (NEW).]

[PL 2019, c. 113, Pt. A, §2 (NEW).]

**8. Restitution by organizations.** The court may require an organization convicted of a crime to make restitution as authorized by chapter 69. Subject to the limitations of chapter 69, restitution may be imposed as a condition of probation or may be imposed in addition to any other sentencing alternative included within subsection 7, with the exception of an unconditional discharge.

[PL 2019, c. 113, Pt. A, §2 (NEW).]

**9. Other authority of court, Department of Corrections and jails.** The provisions of this chapter do not deprive the court of any authority conferred by law to decree a forfeiture of property, suspend or cancel a license, remove a person from office or impose any other civil penalty. An appropriate order exercising such authority may be included as part of the judgment of conviction. The provisions of this chapter do not affect the authority of the Department of Corrections or a county jail granted by statute or the authority to transfer individuals from one facility to another by agreement.

[PL 2019, c. 113, Pt. A, §2 (NEW).]

#### SECTION HISTORY

PL 2019, c. 113, Pt. A, §2 (NEW). PL 2021, c. 591, §1 (AMD).

#### §1503. Sanctions for organizations

**1. Notice to those interested in or affected by conviction.** If an organization is convicted of a crime, the court may, in addition to or in lieu of imposing other authorized penalties, sentence the organization to give appropriate publicity to the conviction by notice to the class or classes of persons or sector of the public interested in or affected by the conviction, by advertising in designated areas or by designated media or otherwise as the court may direct. Failure of the organization to provide the notice required by the court may be punishable as contempt of court.

[PL 2019, c. 113, Pt. A, §2 (NEW).]

**2. Disqualification from holding office.** If a director, trustee or managerial agent of an organization is convicted of a Class A or Class B crime committed on behalf of the organization, the

court may include in the sentence an order disqualifying that individual from holding office in the same or another organization for a period not exceeding 5 years, if the court finds that the scope or nature of that individual's illegal actions makes it dangerous or inadvisable for such office to be entrusted to that individual.

[PL 2019, c. 113, Pt. A, §2 (NEW).]

**3. Deferred disposition.** The court may accept a plea agreement between the attorney for the State and the defendant that provides for an agreed-upon authorized sentencing alternative the imposition of which is deferred in accordance with chapter 67, subchapter 4.

[PL 2019, c. 113, Pt. A, §2 (NEW).]

**4. Supplementary proceedings for damages.** Prior to the imposition of sentence, the court may direct the Attorney General, a district attorney or any other attorney specially designated by the court to institute supplementary proceedings in the case in which the organization was convicted of the crime to determine, collect and distribute damages to persons in the class that the statute was designed to protect who suffered injuries by reason of the crime, if the court finds that the multiplicity of small claims or other circumstances make restitution by individual suit impractical. Such supplementary proceedings must be pursuant to rules adopted by the Supreme Judicial Court for this purpose. The court in which proceedings authorized by this subsection are commenced may order the State to make available to the attorney appointed to institute such proceedings all documents and investigative reports as are in the State's possession or control and grand jury minutes as are relevant to the proceedings.

[PL 2019, c. 113, Pt. A, §2 (NEW).]

#### SECTION HISTORY

PL 2019, c. 113, Pt. A, §2 (NEW).

#### §1504. Forfeiture of firearms

**1. Mandatory forfeiture.** As part of every sentence imposed, except as provided in subsection 2, a court shall order that a firearm must be forfeited to the State if:

A. That firearm constitutes the basis for conviction under:

- (1) Title 15, section 393;
- (2) Section 1105-A, subsection 1, paragraph C-1;
- (3) Section 1105-B, subsection 1, paragraph C;
- (4) Section 1105-C, subsection 1, paragraph C-1;
- (5) Section 1105-D, subsection 1, paragraph B-1;
- (6) Section 1105-E, subsection 1, paragraph B; or
- (7) Section 1118-A, subsection 1, paragraph B; [PL 2019, c. 113, Pt. A, §2 (NEW).]

B. The State pleads and proves that the firearm is used by the person or an accomplice during the commission of any murder or Class A, Class B or Class C crime or any Class D crime defined in chapter 9, 11 or 13; or [PL 2019, c. 113, Pt. A, §2 (NEW).]

C. The person, with the approval of the State, consents to the forfeiture of the firearm. [PL 2019, c. 113, Pt. A, §2 (NEW).]

[PL 2019, c. 113, Pt. A, §2 (NEW).]

**2. Prohibited forfeiture.** Except as provided in subsection 3, a court may not order the forfeiture of a firearm otherwise qualifying for forfeiture under subsection 1 if, prior to the imposition of the person's sentence:

A. For a crime other than murder or any other unlawful homicide crime, another person satisfies the court by a preponderance of the evidence that the other person, at the time of the commission

of the crime, had a right to possess the firearm to the exclusion of the convicted person; or [PL 2019, c. 113, Pt. A, §2 (NEW).]

B. For the crime of murder or any other unlawful homicide crime, another person satisfies the court by a preponderance of the evidence that the other person, at the time of the commission of the crime, was the rightful owner from whom the firearm had been stolen and the other person was not a principal or accomplice in the commission of the crime. [PL 2019, c. 113, Pt. A, §2 (NEW).]  
[PL 2019, c. 113, Pt. A, §2 (NEW).]

**3. Exceptions to prohibited forfeiture.** Notwithstanding subsection 2, paragraph A, the court shall order the forfeiture of a firearm even if another person meets the requirements of subsection 2, paragraph A if the person being sentenced was convicted of possessing a firearm in violation of Title 15, section 393 and, prior to the imposition of the person's sentence, the State satisfies the court by a preponderance of the evidence that the other person:

A. Knew or should have known that the convicted person was prohibited from owning, possessing or controlling a firearm under Title 15, section 393; and [PL 2019, c. 113, Pt. A, §2 (NEW).]

B. Intentionally, knowingly or recklessly allowed the convicted person to possess or have under the convicted person's control the firearm. [PL 2019, c. 113, Pt. A, §2 (NEW).]  
[PL 2019, c. 113, Pt. A, §2 (NEW).]

**4. Disposition of forfeited firearms.** The Attorney General shall adopt rules governing the disposition to state, county and municipal agencies of firearms forfeited under this section. A firearm used during a murder or other unlawful homicide crime that does not meet the prohibition from forfeiture under subsection 2, paragraph B must be destroyed by the State.  
[PL 2019, c. 113, Pt. A, §2 (NEW).]

#### SECTION HISTORY

PL 2019, c. 113, Pt. A, §2 (NEW).

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