§1608. Multiple sentences of imprisonment

1. Court to state whether sentence is served concurrently or consecutively; consecutive sentence contingent upon certain factors. The court shall state in the sentence of imprisonment whether a sentence must be served concurrently with or consecutively to any other sentence previously imposed or to another sentence imposed on the same date. The sentences must be concurrent except that the court may impose the sentences consecutively after considering the following factors:

A. The convictions are for offenses based on different conduct or arising from different criminal episodes; [PL 2019, c. 113, Pt. A, §2 (NEW).]

B. The individual was under a previously imposed suspended or unsuspended sentence and was on probation or administrative release, under incarceration or on a release program or period of supervised release at the time the individual committed a subsequent offense; [PL 2019, c. 113, Pt. A, §2 (NEW).]

C. The individual had been released on bail when that individual committed a subsequent offense, either pending trial of a previously committed offense or pending the appeal of previous conviction; or [PL 2019, c. 113, Pt. A, §2 (NEW).]

D. The seriousness of the criminal conduct involved in either a single criminal episode or in multiple criminal episodes or the seriousness of the criminal record of the individual, or both, require a sentence of imprisonment in excess of the maximum available for the most serious offense. [PL 2019, c. 113, Pt. A, §2 (NEW).]

[PL 2019, c. 113, Pt. A, §2 (NEW).]

2. Limitations on imposition of consecutive terms for crimes in same criminal episode. An individual may not be sentenced to consecutive terms for crimes arising out of the same criminal episode if:

A. One crime is an included crime of the other; [PL 2019, c. 113, Pt. A, §2 (NEW).]

B. One crime consists only of a conspiracy, attempt, solicitation or other form of preparation to commit, or facilitation of, the other; [PL 2019, c. 113, Pt. A, §2 (NEW).]

C. The crimes differ only in that one is defined to prohibit a designated kind of conduct generally and the other to prohibit a specific instance of that conduct; or [PL 2019, c. 113, Pt. A, §2 (NEW).]

D. Inconsistent findings of fact are required to establish the commission of the crimes. [PL 2019, c. 113, Pt. A, §2 (NEW).]

[PL 2019, c. 113, Pt. A, §2 (NEW).]

3. Reason for consecutive sentences must be stated. If the court decides to impose consecutive sentences, the court shall state its reasons for doing so on the record or in the sentences.

[PL 2019, c. 113, Pt. A, §2 (NEW).]

4. When new sentence is to be served consecutively for individual on probation, administrative release or supervised release. If an individual has been placed on probation, administrative release or supervised release pursuant to a previously imposed sentence and the court determines that the previously imposed sentence and a new sentence must be served consecutively, the court shall revoke probation or administrative release pursuant to section 1812, subsections 5 and 6 or terminate supervised release pursuant to section 1881, subsection 6. The court may order that the sentence that had been suspended be served at the same institution as that which is specified by the new sentence.

[PL 2019, c. 113, Pt. A, §2 (NEW).]

5. Mandatory resentencing following discovery of previously imposed sentence. If it is discovered subsequent to the imposition of a sentence of imprisonment that the sentencing court was unaware of a previously imposed sentence of imprisonment that is not fully discharged, the court shall resentence the individual and shall specify whether the sentences are to be served concurrently or consecutively.

[PL 2019, c. 113, Pt. A, §2 (NEW).]

6. Special requirements for individual previously sentenced in another jurisdiction. If an individual who has been previously sentenced in another jurisdiction has not commenced or completed that sentence, the court may, with consideration of the factors stated in subsection 1, sentence the individual to a term of imprisonment that must be treated as a concurrent sentence from the date of sentencing although the individual is incarcerated in an institution of the other jurisdiction. A concurrent sentence pursuant to this subsection may not be imposed unless the individual being sentenced consents or unless the individual being sentenced executes, at the time of sentencing, a written waiver of extradition for that individual's return to this State, upon completion of the sentence of the other jurisdiction, if any portion of this State's sentence remains unserved. In the absence of an order pursuant to this subsection requiring concurrent sentences, any sentence of imprisonment in this State commences as provided in section 2303, subsections 1 and 2 and runs consecutively to the sentence of the other jurisdiction.

[PL 2019, c. 113, Pt. A, §2 (NEW).]

7. Sentencing subsequent to probation, administrative release or supervised release. A court may not impose a sentence of imprisonment, not wholly suspended, to be served consecutively to any split sentence, or to any sentence including supervised release under chapter 67, subchapter 3, previously imposed or imposed on the same date, if the net result, even with the options made available by subsections 4 and 8, section 1804, subsection 12, section 1852, subsection 5 and section 1881, subsection 6, would be to have the individual released from physical confinement to be on probation, administrative release or supervised release for the first sentence and thereafter be required to serve an unsuspended term of imprisonment on the 2nd sentence.

[PL 2019, c. 113, Pt. A, §2 (NEW).]

8. Rearrangement of order of sentences. A court imposing a sentence of imprisonment to be served consecutively to any other previously imposed sentence that the individual has not yet commenced, in order to comply with subsection 7, may rearrange the order in which the sentences are to be served.

[PL 2019, c. 113, Pt. A, §2 (NEW).]

SECTION HISTORY

PL 2019, c. 113, Pt. A, §2 (NEW).

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