

2010 -- S 2324

LC00802

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2010

A N A C T

RELATING TO CRIMINAL PROCEDURE - SENTENCE AND EXECUTION

Introduced By: Senator C Levesque

Date Introduced: February 11, 2010

Referred To: Senate Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 12-19-9, 12-19-14, 12-19-15 and 12-19-19 of the General Laws in
2 Chapter 12-19 entitled "Sentence and Execution" are hereby amended to read as follows:
3 **12-19-9. Violation of terms of probation -- Notice to attorney general -- Revocation**
4 **or continuation of suspension.** -- Whenever any person who has been placed on probation
5 pursuant to section 12-9-8 violates the terms and conditions of his or her probation as fixed by the
6 court, the police or the probation authority shall inform the attorney general of the violation, and
7 the attorney general shall cause the defendant to appear before the court. The court may request
8 the division of field services to render a report relative to the conduct of the defendant, and,
9 pending receipt of the report, may order the defendant held without bail for a period not
10 exceeding ten (10) days, excluding Saturdays, Sundays, and holidays. The court shall conduct a
11 hearing to determine whether the defendant has violated the terms and conditions of his or her
12 probation, at which hearing the defendant shall have the opportunity to be present and to respond.
13 Upon a determination that the defendant has violated the terms and conditions of his or her
14 probation the court, in open court and in the presence of the defendant, may remove the
15 suspension and order the defendant committed on the sentence previously imposed, or on a lesser
16 sentence, or impose a sentence if one has not been previously imposed; provided, that if
17 sentenced to a period of incarceration, the period of incarceration shall not exceed the amount of
18 time remaining on the original sentence, or may continue the suspension of a sentence previously
19 imposed, as to the court may seem just and proper.

1 **12-19-14. Violation of terms of probation -- Notice to court -- Revocation or**
2 **continuation of suspension.** -- Whenever any person, who has been placed on probation by
3 virtue of the suspension of execution of his or her sentence pursuant to section 12-19-13, violates
4 the terms and conditions of his or her probation as fixed by the court, the police or division of
5 field services shall cause the defendant to appear before the court. The court may require the
6 division of field services to render a written report relative to the conduct of the defendant, and,
7 pending receipt of the report, may order the defendant held without bail for a period not
8 exceeding ten (10) days excluding Saturdays, Sundays, and holidays. The court shall conduct a
9 hearing to determine whether the defendant has violated the terms and conditions of his or her
10 probation, at which hearing the defendant shall have the opportunity to be present and to respond.
11 Upon a determination that the defendant has violated the terms and conditions of his or her
12 probation the court, in open court and in the presence of the defendant, may revoke the
13 suspension and order the defendant committed on the sentence previously imposed; provided,
14 that if sentenced to a period of incarceration, the period of incarceration shall not exceed the
15 amount of time remaining on the original sentence, or on a lesser sentence, or may continue the
16 suspension as to the court may seem just and proper.

17 **12-19-15. Term of probation -- Power to commit after termination of original**
18 **sentence.** -- The power of the court to commit the defendant shall not be deemed to terminate
19 with the termination of the period of the original sentence, but the court shall have power to
20 enforce the sentence even though the original period of the sentence has expired. The term of the
21 suspended sentence may be longer or shorter or for the same time as the probation period, and the
22 time during which the defendant is on probation shall not be deemed by sections 12-19-13 -- 12-
23 19-17 to be a part of the term of his or her sentence, although the court, in its discretion, may give
24 consideration to the probationer's conduct during the probationary period in enforcing the
25 sentence originally imposed; provided, that if a defendant is sentenced to a period of
26 incarceration, the period of incarceration shall not exceed the amount of time remaining on the
27 original sentence, or any lesser sentence.

28 **12-19-19. Sentencing on plea of guilty or nolo contendere -- Deferment of sentence. -**
29 **z** -- Whenever any prisoner is arraigned before the superior court and pleads guilty or refuses to
30 contend with the state, he or she may be at any time sentenced by the court; provided, that if at
31 any time the court formally defers sentencing the defendant, and upon the deferral a written
32 agreement concerning the deferring of sentence is entered into between the attorney general and
33 the prisoner and filed with the clerk of the court, the court may only impose sentence within five
34 (5) years from and after the date of the written agreement, unless during the period, the prisoner

1 shall be sentenced to imprisonment in this or in any other state, in which event the court may
2 impose sentence at any time within five (5) years from and after the termination of the sentence
3 of imprisonment, or unless at the time the sentence is formally deferred the prisoner is serving a
4 term of imprisonment under sentence previously imposed in another case, in which event the
5 court may impose sentence at any time within five (5) years from and after the date on which the
6 prisoner is released from prison either on parole or at the termination of the sentence of
7 imprisonment, whichever first occurs; provided, that a defendant on a deferred sentence who is
8 sentenced to a period of incarceration for violating the terms of that deferred sentence shall not be
9 incarcerated for a term exceeding the amount of time remaining on the original deferred sentence.

10 SECTION 2. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
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RELATING TO CRIMINAL PROCEDURE - SENTENCE AND EXECUTION

1 This act would change the sentencing laws regarding sentencing violators of probation
2 and suspended sentences, limiting the amount of time a defendant may be sentenced to jail on a
3 violation of their sentence, to the time remaining on their original sentence, or less.

4 This act would take effect upon passage.

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