

2022 -- S 2398

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2022

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A N A C T

RELATING TO CRIMINAL PROCEDURE - SENTENCE AND EXECUTION

Introduced By: Senators Kallman, McCaffrey, Coyne, Sosnowski, Miller, Murray, Euer,  
Valverde, DiMario, and Mack

Date Introduced: February 15, 2022

Referred To: Senate Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 12-19-2 of the General Laws in Chapter 12-19 entitled "Sentence and  
2 Execution" is hereby amended to read as follows:

3 **12-19-2. Selection of method and amount or term of punishment.**

4 (a) Whenever it is provided that any offense shall be punished by a fine or imprisonment,  
5 the court imposing punishment may, in its discretion, select the kind of punishment to be imposed,  
6 and, if the punishment is fine or imprisonment, its amount or term within the limits prescribed by  
7 law; provided, if the punishment to be imposed is imprisonment, the sentence or sentences imposed  
8 shall be reduced by the number of days spent in confinement while awaiting trial and while awaiting  
9 sentencing; and provided, further, that in the case of a person sentenced to a life sentence, the time  
10 at which he or she shall become eligible to apply for parole shall be reduced by the number of days  
11 spent in confinement while awaiting trial and while awaiting sentencing; and any sentence or  
12 sentences in effect at present, including the provision as to a life sentence as described in this  
13 subsection may be reduced in like manner by the court which imposed the sentence upon  
14 application by the person serving the sentence to the court.

15 (b) The court upon the sentencing of a first time offender, excluding capital offense and  
16 sex offense involving minors, may in appropriate cases sentence the person to a term of  
17 imprisonment, and allow the person to continue in his or her usual occupation or education and  
18 shall order the person to be confined in a minimum security facility at the A.C.I. during his or her  
19 nonworking or study hours.

1           (c) The court, in imposing a sentence upon any person, shall make a finding as to whether  
2 the defendant is the parent of a child or infant whose well-being will be negatively affected by the  
3 parent's absence, and if so, shall consider the following circumstances in assessing the  
4 appropriateness of any sentence imposed:

5           (1) That the parent is breastfeeding the child;

6           (2) The age of the child, with strong consideration given to avoiding disruption of the  
7 caregiving of an infant, pre-school or school-age child by the parent;

8           (3) The role of the parent in the day-to-day educational and medical needs of the child;

9           (4) The relationship of the parent and child;

10          (5) Any special, medical, educational, or psychological needs of the child;

11          (6) The role of the parent in the financial support of the child.

12          The court shall permit the defendant to present a family impact statement at sentencing  
13 which the court shall consider prior to imposing any sentence. The impact statement may include  
14 testimony from family and community members, written statements, videos and other  
15 documentation. Unless the court finds that the parent poses a significant risk to the community that  
16 outweighs the risk of harm to the defendant's child by the parent's removal from the family, the  
17 court shall impose a sentence of probation, a suspended sentence or home confinement if  
18 determined necessary, which allows the parent to continue to care for their child or children.

19          ~~(c)~~(d) The director of corrections or his or her designee may impose any conditions and  
20 restrictions upon the release of persons sentenced under this section that he or she deems necessary.

21          ~~(d)~~(e) The director of corrections may at any time, subject to the approval of the director,  
22 recall a prisoner from release status if he or she believes or has reason to believe the peace, safety,  
23 welfare, or security of the community may be endangered by the prisoner being under release status.  
24 Any prisoner recalled under this subsection shall be presented to the next regularly scheduled  
25 meeting of the classification board for its further consideration.

26          ~~(e)~~(f) A prisoner authorized to work at paid employment in the community under this  
27 section may be required to pay, and the director is authorized to collect, costs incident to the  
28 prisoner's confinement as the director deems appropriate and reasonable. These collections shall be  
29 deposited with the treasurer as a part of the general revenue of the state.

30          ~~(f)~~(g) When a sentenced inmate's parole release date or completion of sentence falls on a  
31 weekend or on a holiday, the department of corrections may release the inmate on the prior business  
32 day.

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

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF

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1           This act would require the courts to consider the parental status of the defendant at the time  
2 of sentencing and would allow the defendant to present a family impact statement, including  
3 testimony, videos and documents relative to their parental status. Unless the court finds that the  
4 parent poses a significant risk to the community that outweighs the harm of the parent's absence  
5 from the child's life, it shall impose a sentence that does not include imprisonment.

6           This act would take effect upon passage.

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