§1604. Imprisonment for crimes other than murder

1. Maximum terms of imprisonment dependent on crime class. Unless a different maximum term of imprisonment is specified by statute, the maximum term of imprisonment is as follows:

A. In the case of a Class A crime, 30 years; [PL 2019, c. 113, Pt. A, §2 (NEW).]

B. In the case of a Class B crime, 10 years; [PL 2019, c. 113, Pt. A, §2 (NEW).]

C. In the case of a Class C crime, 5 years; [PL 2019, c. 113, Pt. A, §2 (NEW).]

D. In the case of a Class D crime, less than one year; or [PL 2019, c. 113, Pt. A, §2 (NEW).]

E. In the case of a Class E crime, 6 months. [PL 2019, c. 113, Pt. A, §2 (NEW).]
[PL 2019, c. 113, Pt. A, §2 (NEW).]

2. Exceptions to maximum term of imprisonment based on crime class. Notwithstanding subsection 1:

A. In the case of the Class A crime of aggravated attempted murder, the court shall set a term of imprisonment under section 152-A, subsection 2 of life or a definite period of any term of years; [PL 2019, c. 113, Pt. A, §2 (NEW).]

B. If the State pleads and proves that the defendant is a repeat sexual assault offender, the court may set a definite term of imprisonment under section 253-A, subsection 1 for any term of years; and [PL 2019, c. 113, Pt. A, §2 (NEW).]

C. In the case of the Class A crime of gross sexual assault against an individual who had not yet attained 12 years of age, the court shall set a definite term of imprisonment under section 253-A, subsection 2 for any term of years. [PL 2019, c. 113, Pt. A, §2 (NEW).]
[PL 2019, c. 113, Pt. A, §2 (NEW).]

3. Mandatory minimum term of imprisonment for crime with use of firearm against an individual. If the State pleads and proves that a Class A, B or C crime was committed with the use of a firearm against an individual, the minimum sentence of imprisonment, which may not be suspended, is as follows:

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

B. In the case of a Class B crime, 2 years; and [PL 2019, c. 113, Pt. A, §2 (NEW).]

C. In the case of a Class C crime, one year. [PL 2019, c. 113, Pt. A, §2 (NEW).]

For purposes of this subsection, the applicable sentencing class is determined in accordance with subsection 5, paragraph A.

This subsection does not apply if the State pleads and proves criminal threatening or attempted criminal threatening, as defined in section 209, or terrorizing or attempted terrorizing, as defined in section 210, subsection 1, paragraph A.
[PL 2019, c. 113, Pt. A, §2 (NEW).]

4. Mandatory minimum sentence of imprisonment for certain drug crimes. For an individual convicted of violating section 1105-A, 1105-B, 1105-C, 1105-D or 1118-A, except as otherwise provided in section 1125, subsections 2 and 3, the court shall impose a minimum sentence of imprisonment, which may not be suspended, as provided in section 1125, subsection 1.
[PL 2019, c. 113, Pt. A, §2 (NEW).]

5. Circumstances elevating class of crime. The following circumstances elevate the class of a crime.

A. If the State pleads and proves that a Class B, C, D or E crime was committed with the use of a dangerous weapon, then the sentencing class for such crime is one class higher than it would

otherwise be. In the case of a Class A crime committed with the use of a dangerous weapon, such use must be assigned special weight by the court in exercising its sentencing discretion. This paragraph does not apply to a violation or an attempted violation of section 208, to any other offenses to which use of a dangerous weapon serves as an element or to any offense for which the sentencing class is otherwise elevated because the actor or an accomplice to that actor's or accomplice's knowledge was armed with a firearm or other dangerous weapon. [PL 2019, c. 113, Pt. A, §2 (NEW).]

B. If the State pleads and proves that, at the time any crime under chapter 9, 11, 12, 13, 27 or 35; section 402-A, subsection 1, paragraph A; or section 752-A, 752-C or 752-F was committed, or an attempt of any such crime was committed, the individual had 2 or more prior convictions under chapter 9, 11, 12, 13, 27 or 35, excluding former section 853-A; section 402-A, subsection 1, paragraph A; or section 752-A, 752-C or 752-F, or for an attempt of any such crime, or for engaging in substantially similar conduct in another jurisdiction, the sentencing class for the crime is one class higher than it would otherwise be.

(1) In the case of a Class A crime, the sentencing class is not elevated, but the prior record must be assigned special weight by the court when imposing a sentence.

(2) Section 9-A governs the use of prior convictions when determining a sentence, except that, for the purposes of this paragraph, for violations under chapter 11, the dates of prior convictions may have occurred at any time.

This paragraph does not apply to section 210-A if the prior convictions have already served to elevate the sentencing class under section 210-A, subsection 1, paragraph C or E or any other offense in which prior convictions have already served to elevate the sentencing class.

This paragraph does not apply to murder under section 201 or to former section 853-A. [PL 2023, c. 557, §4 (AMD).]

C. The sentencing class for a crime that is pled and proved and is subject to elevation pursuant to both paragraphs A and B may be elevated successively pursuant to both of those paragraphs if the crime that is pled and proved contains different class elevation factors. [PL 2019, c. 113, Pt. A, §2 (NEW).]

[PL 2023, c. 557, §4 (AMD).]

6. Special weight required for certain aggravating sentencing factors pleaded and proved. In exercising its sentencing discretion, a court shall assign special weight to the following aggravating sentencing factors pleaded and proved by the State:

A. In the case of Class A gross sexual assault, the aggravating sentencing factor specified in section 253-A, subsection 3, paragraph A; [PL 2019, c. 113, Pt. A, §2 (NEW).]

B. In the case of gross sexual assault in violation of section 253, subsection 1 or section 253, subsection 2, the aggravating sentencing factor specified in section 253-A, subsection 3, paragraph B; and [PL 2019, c. 113, Pt. A, §2 (NEW).]

C. In the case of sexual exploitation of a minor, the aggravating sentencing factor specified in section 282, subsection 3. [PL 2019, c. 113, Pt. A, §2 (NEW).]

[PL 2019, c. 113, Pt. A, §2 (NEW).]

7. Special weight required for certain aggravating sentencing factors found present by court. In exercising its sentencing discretion, the court shall assign special weight to the following aggravating sentencing factors if found by the court.

A. In imposing a sentencing alternative involving a term of imprisonment for an individual convicted of aggravated attempted murder, attempted murder, manslaughter, elevated aggravated assault or aggravated assault of a child who had not in fact attained 6 years of age at the time the

crime was committed, the court shall assign special weight to this objective fact in determining the basic term of imprisonment as the first step in the sentencing process specified in section 1602, subsection 1, paragraph A. The court shall assign special weight to any subjective victim impact in determining the maximum term of incarceration in the 2nd step in the sentencing process specified in section 1602, subsection 1, paragraph B. The court may not suspend that portion of the maximum term of imprisonment based on objective or subjective victim impact in arriving at the final sentence as the 3rd and final step in the sentencing process specified in section 1602, subsection 1, paragraph C. This paragraph may not be construed to restrict a court in setting a sentence from considering the age of the victim in other circumstances when relevant. [PL 2019, c. 113, Pt. A, §2 (NEW).]

B. In imposing a sentencing alternative involving a term of imprisonment for an individual convicted of aggravated attempted murder, attempted murder, manslaughter, elevated aggravated assault or aggravated assault of a woman who the convicted individual knew or had reasonable cause to believe to be in fact pregnant at the time the crime was committed, the court shall assign special weight to this fact in determining the basic term of imprisonment as the first step in the sentencing process specified in section 1602, subsection 1, paragraph A. The court shall assign special weight to any subjective victim impact in determining the maximum term of incarceration in the 2nd step in the sentencing process specified in section 1602, subsection 1, paragraph B. The court may not suspend that portion of the maximum term of imprisonment based on objective or subjective victim impact in arriving at the final sentence as the 3rd and final step in the sentencing process specified in section 1602, subsection 1, paragraph C. This paragraph may not be construed to restrict a court in setting a sentence from considering the fact that the victim was pregnant in other circumstances when relevant. [PL 2019, c. 113, Pt. A, §2 (NEW).]

C. In imposing a sentencing alternative involving a term of imprisonment for an individual convicted of a Class C or higher crime, the victim of which was at the time of the commission of the crime in fact being stalked by that individual, the court shall assign special weight to this objective fact in determining the basic sentence in the first step of the sentencing process specified in section 1602, subsection 1, paragraph A. The court shall assign special weight to any subjective victim impact caused by the stalking in determining the maximum term of incarceration in the 2nd step in the sentencing process specified in section 1602, subsection 1, paragraph B. [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). PL 2023, c. 316, §12 (AMD). PL 2023, c. 455, §3 (AMD). PL 2023, c. 557, §4 (AMD).

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