

**§1802. Eligibility for sentencing alternative that includes period of probation**

**1. General eligibility.** A person who has been convicted of a crime may be sentenced to a sentencing alternative under section 1502 that includes a period of probation, unless:

A. The conviction is for murder; [PL 2019, c. 113, Pt. A, §2 (NEW).]

B. The conviction is for a Class D or Class E crime other than:

(1) A Class D or Class E crime relative to which, based upon both the written agreement of the parties and a court finding, the facts and circumstances of the underlying criminal episode giving rise to the conviction generated probable cause to believe the person had committed a Class A, Class B or Class C crime in the course of that criminal episode and, as agreed upon in writing by the parties and found by the court, the person does not have a prior conviction for murder or for a Class A, Class B or Class C crime and has not been placed on probation pursuant to this subparagraph on any prior occasion;

(2) A Class D crime that the State pleads and proves was committed against a family or household member or a dating partner under chapter 9 or 13 or section 554, 555 or 758;

(3) A Class D crime under Title 5, section 4659, subsection 1; Title 15, section 321, subsection 6; Title 19-A, former section 4011, subsection 1; or Title 19-A, section 4113;

(4) A Class D or Class E crime in chapter 11 or 12;

(5) A Class D crime under section 210-A;

(6) A Class E crime under section 552;

(7) A Class D or Class E crime under section 556, section 853 or section 854, excluding subsection 1, paragraph A, subparagraph (1);

(8) A Class D crime in chapter 45 relating to a schedule W drug;

(9) A Class D or Class E crime under Title 29-A, section 2411, subsection 1-A, paragraph B;

(10) A Class D crime under Title 17, section 1031; or

(11) A Class E crime under Title 15, section 1092, subsection 1, paragraph A, if the condition of release violated is specified in Title 15, section 1026, subsection 3, paragraph A, subparagraph (5) or (8) and the underlying crime involved domestic violence; [PL 2021, c. 447, §4 (AMD); PL 2021, c. 647, Pt. B, §38 (AMD); PL 2021, c. 647, Pt. B, §65 (AFF).]

C. The court sentences the person to a sentencing alternative under section 1502 that includes a period of administrative release; [PL 2019, c. 113, Pt. A, §2 (NEW).]

D. The court sentences the individual to a term of imprisonment followed by a period of supervised release as authorized by subchapter 3; [PL 2019, c. 113, Pt. A, §2 (NEW).]

E. The statute that the person is convicted of violating expressly provides that the fine or imprisonment penalties it authorizes may not be suspended, in which case the person must be sentenced to the imprisonment and required to pay the fine authorized in that statute; or [PL 2019, c. 113, Pt. A, §2 (NEW).]

F. The court finds that such a sentence would diminish the gravity of the crime for which that person was convicted. [PL 2019, c. 113, Pt. A, §2 (NEW).]

[PL 2021, c. 447, §4 (AMD); PL 2021, c. 647, Pt. B, §38 (AMD); PL 2021, c. 647, Pt. B, §65 (AFF).]

**2. Eligibility for persons needing supervision or assistance.** A person who is eligible for sentence under this subchapter, as provided in subsection 1, may be sentenced to a sentencing

alternative that includes a period of probation if the person is in need of the supervision, guidance, assistance or direction that probation can provide.

[PL 2019, c. 113, Pt. A, §2 (NEW).]

#### SECTION HISTORY

PL 2019, c. 113, Pt. A, §2 (NEW). PL 2021, c. 447, §4 (AMD). PL 2021, c. 647, Pt. B, §38 (AMD). PL 2021, c. 647, Pt. B, §65 (AFF).

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