

2023 -- H 5686

LC001500

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2023

A N A C T

RELATING TO CRIMINAL PROCEDURE -- SENTENCE AND EXECUTION

Introduced By: Representatives Cruz, Potter, Batista, Speakman, Tanzi, Stewart, Boylan,
McNamara, Giraldo, and Kazarian

Date Introduced: February 17, 2023

Referred To: House 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 or caregiver of an elderly, disabled or terminally ill
3 family member whose well-being will be negatively affected by the parent's or caregiver's absence,
4 and if so, shall consider the following circumstances in assessing the appropriateness of any
5 sentence imposed:

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

7 (2) The age of the child, with strong consideration given to avoiding disruption of the
8 caregiving of an infant, pre-school or school-age child by the parent; or age of the elderly, disabled
9 or terminally ill family member;

10 (3) The role of the parent or caregiver in the day-to-day educational and medical needs of
11 the child or elderly, disabled or terminally ill family member;

12 (4) The relationship of the parent and child or caregiver and elderly, disabled, or terminally
13 ill family member;

14 (5) Any special, medical, educational, or psychological needs of the child or elderly,
15 disabled, or terminally ill family member; and

16 (6) The role of the parent or caregiver in the financial support of the child or elderly,
17 disabled, or terminally ill family member.

18 (d) The court shall permit the defendant to present a family impact statement at sentencing
19 which the court shall consider prior to imposing any sentence. The impact statement may include
20 testimony from family and community members, written statements, videos and other
21 documentation. Unless the court finds that the parent poses a significant risk to the community that
22 outweighs the risk of harm to the defendant's child by the parent's removal, or caregiver's removal
23 from the family, the court shall impose a sentence of probation, a suspended sentence or home
24 confinement if determined necessary, which allows the parent or caregiver to continue to care for
25 their child or children, or elderly, disabled, or terminally ill family member.

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

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

33 ~~(g)~~(g) A prisoner authorized to work at paid employment in the community under this
34 section may be required to pay, and the director is authorized to collect, costs incident to the

1 prisoner's confinement as the director deems appropriate and reasonable. These collections shall
2 be deposited with the treasurer as a part of the general revenue of the state.

3 ~~(h)~~(h) When a sentenced inmate's parole release date or completion of sentence falls on a
4 weekend or on a holiday, the department of corrections may release the inmate on the prior business
5 day.

6 ~~(i)~~(i) When a sentenced inmate is scheduled to be released from the custody of the
7 department of corrections to a community partner for residential treatment and/or to a facility to
8 maintain stable living conditions, and the inmate's release date or completion of sentence is
9 incompatible with the capacity, staffing, or scheduling capabilities of the community partner
10 facility, the department of corrections may release the inmate up to three (3) business days earlier
11 than the scheduled release date, provided the inmate transitions directly from the department of
12 corrections to the community partner facility.

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

=====
LC001500
=====

EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO CRIMINAL PROCEDURE -- SENTENCE AND EXECUTION

1 This act would require a sentencing court to consider whether the defendant is the parent
2 of a child, or infant or caregiver of an elderly disabled or terminally ill family member whose well
3 being would be adversely affected by the person's incarceration and if so, shall impose a sentence
4 of probation, a suspended sentence or home confinement unless that defendant poses a significant
5 risk of danger to the community that outweighs the effects on the child or parent for whom they
6 care.

7 This act would take effect upon passage.

=====
LC001500
=====