

## **901.5 Pronouncing judgment and sentence.**

After receiving and examining all pertinent information, including the presentence investigation report and victim impact statements, if any, the court shall consider the following sentencing options. The court shall determine which of them is authorized by law for the offense, and of the authorized sentences, which of them or which combination of them, in the discretion of the court, will provide maximum opportunity for the rehabilitation of the defendant, and for the protection of the community from further offenses by the defendant and others.

At the time fixed by the court for pronouncement of judgment and sentence, the court shall act accordingly:

1. If authorized by section 907.3, the court may defer judgment and sentence for an indefinite period in accordance with chapter 907.
  2. If the defendant is not an habitual offender as defined by section 902.8, the court may pronounce judgment and impose a fine.
  3. The court may pronounce judgment and impose a fine or sentence the defendant to confinement, or both, and suspend the execution of the sentence or any part of it as provided in chapter 907.
  4. The court may pronounce judgment and impose a fine or sentence the defendant to confinement, or both.
  5. If authorized by section 907.3, the court may defer the sentence and assign the defendant to the judicial district department of correctional services.
  6. The court may pronounce judgment and sentence the defendant to confinement and then reconsider the sentence as provided by section 902.4 or 903.2.
  7. The court shall inform the defendant of the mandatory minimum sentence, if one is applicable.
- 7A. *a.* The court may order the defendant to have no contact with the victim of the offense, persons residing with the victim, members of the victim's immediate family, or witnesses to the offense if the court finds that the presence of or contact with the defendant poses a threat to the safety of the victim, persons residing with the victim, members of the victim's immediate family, or witnesses to the offense.
- b.* The duration of the no-contact order may extend for a period of five years from the date the judgment is entered or the deferred judgment is granted, or up to the maximum term of confinement, whichever is greater. The court may order the no-contact order regardless of whether the defendant is placed on probation.
- Upon the filing of an affidavit by the victim, a person residing with the victim, a member of the victim's immediate family, or a witness to the offense which states that the defendant continues to pose a threat to the safety of the victim, persons residing with the victim, members of the victim's immediate family, or witnesses to the offense within ninety days prior to the expiration of the no-contact order, the court shall modify and extend the no-contact order for an additional period of up to five years, unless the court finds that the defendant no longer poses a threat to the safety of the victim, persons residing with the victim, members of the victim's immediate family, or witnesses to the offense. The number of modifications extending the no-contact order permitted by this subsection is not limited.
- c.* The court order shall contain the court's directives restricting the defendant from having contact with the victim of the offense, persons residing with the victim, members of the victim's immediate family, or witnesses to the offense. The order shall state whether the defendant is to be taken into custody by a peace officer for a violation of the terms stated in the order.

*d.* Violation of a no-contact order issued under this subsection is punishable by summary contempt proceedings. A hearing in a contempt proceeding brought pursuant to this subsection shall be held not less than five days and not more than fifteen days after the issuance of a rule to show cause, as set by the court, unless the defendant is already in custody at the time of the alleged violation in which case the hearing shall be held not less than five days and not more than forty-five days after the issuance of the rule to show cause.

*e.* For purposes of this subsection, "*victim*" means a person who has suffered physical, emotional, or financial harm as the result of a public offense committed in this state.

8. The court may order the defendant to complete any treatment indicated by a substance abuse evaluation ordered pursuant to section 901.4A or any other section.

8A. *a.* The court shall order DNA profiling of a defendant convicted of an offense that requires profiling under section 13.10.

*b.* Notwithstanding section 13.10, the court may order the defendant to provide a physical specimen to be submitted for DNA profiling if appropriate. In determining the appropriateness of ordering DNA profiling, the court shall consider the deterrent effect of DNA profiling, the likelihood of repeated offenses by the defendant, and the seriousness of the offense.

9. If the defendant is being sentenced for an aggravated misdemeanor or a felony, the court shall publicly announce the following:

*a.* That the defendant's term of incarceration may be reduced from the maximum sentence because of statutory earned time, work credits, and program credits.

*b.* That the defendant may be eligible for parole before the sentence is discharged.

*c.* In the case of multiple sentences, whether the sentences shall be served consecutively or concurrently.

10. In addition to any sentence imposed pursuant to chapter 902 or 903, the court shall order the state department of transportation to revoke the defendant's driver's license or motor vehicle operating privilege for a period of one hundred eighty days, or to delay the issuance of a driver's license for one hundred eighty days after the person is first eligible if the defendant has not been issued a driver's license, and shall send a copy of the order in addition to the notice of conviction required under section 124.412, 126.26, or 453B.16, to the state department of transportation, if the defendant is being sentenced for any of the following offenses:

*a.* A controlled substance offense under section 124.401, 124.401A, 124.402, or 124.403.

*b.* A drug or drug-related offense under section 126.3.

*c.* A controlled substance tax offense under chapter 453B.

If the person's operating privileges are suspended or revoked at the time of sentencing, the order shall provide that the one hundred eighty-day revocation period shall not begin until all other suspensions or revocations have terminated. Any order under this section shall also provide that the department shall not issue a temporary restricted license to the defendant during the revocation period, without further order by the court.

11. In addition to any sentence or other penalty imposed against the defendant for an offense under chapter 124, the court shall consider the provisions of 21 U.S.C. § 862, regarding the denial of federal benefits to drug traffickers and possessors convicted under state or federal law, and may enter an order specifying the range and scope of benefits to be denied to the defendant, according to the provisions of 21 U.S.C. § 862. For the purposes of this subsection, "*federal benefit*" means the issuance of any grant, contract, loan, professional

license, or commercial license provided by an agency of the United States or through the appropriation of funds of the United States, but does not include any retirement, welfare, social security, health, disability, veterans, public housing, or similar benefit for which payments or services are required for eligibility. The supreme court may adopt rules establishing sentencing guidelines consistent with this subsection and 21 U.S.C. § 862. The clerk of the district court shall send a copy of any order issued pursuant to this subsection to the denial of federal benefits program of the United States department of justice, along with any other forms and information required by the department.

12. In addition to any sentence or other penalty imposed against the defendant for an offense under chapter 124, the court shall consider the denial of state benefits to the defendant, and may enter an order specifying the range and scope of benefits to be denied to the defendant, comparable to the federal benefits denied under subsection 11. For the purposes of this subsection, "*state benefit*" means the issuance of any grant, contract, loan, professional license, or commercial license provided by a state agency, department, program, or otherwise through the appropriation of funds of the state, but does not include any retirement, welfare, health, disability, veterans, public housing, or similar benefit. The supreme court may adopt rules establishing sentencing guidelines consistent with this subsection and comparable to the guidelines for denial of federal benefits in 21 U.S.C. § 862. The clerk of the district court shall send a copy of any order issued pursuant to this subsection to each state agency, department, or program required to deny benefits pursuant to such an order.

[C79, 81, § 901.5]

84 Acts, ch 1063, § 1; 86 Acts, ch 1178, § 3; 90 Acts, ch 1251, § 65; 92 Acts, ch 1023, § 1; 96 Acts, ch 1218, § 68; 98 Acts, ch 1073, § 9; 98 Acts, ch 1138, § 26; 2000 Acts, ch 1122, §3; 2000 Acts, ch 1173, §2, 10; 2001 Acts, ch 165, §3; 2003 Acts, ch 109, §1; 2003 Acts, ch 156, §8; 2003 Acts, ch 179, §77; 2004 Acts, ch 1101, §93

## **Footnotes**

Surcharge on penalty, chapter 911

For future amendment to subsection 8A effective upon appropriation or receipt of funds, see 2002 Acts, ch 1080, §2, 6