

§253-A. Special sentencing provisions for gross sexual assault

1. Any term of years; nonmandatory sentence alternative. If the State pleads and proves that the defendant is a repeat sexual assault offender, the court may impose a definite term of imprisonment for any term of years. The court also may impose as part of the sentence either a period of probation of any term of years pursuant to section 1804, subsection 4 or a period of supervised release of any term of years pursuant to section 1881, subsection 2, paragraph A.

As used in this subsection, "repeat sexual assault offender" means a person who commits a new gross sexual assault after having been convicted previously and sentenced for any of the following:

- A. Gross sexual assault, formerly denominated as gross sexual misconduct; [PL 2019, c. 113, Pt. B, §14 (NEW).]
- B. Rape; [PL 2019, c. 113, Pt. B, §14 (NEW).]
- C. Attempted murder accompanied by sexual assault; [PL 2019, c. 113, Pt. B, §14 (NEW).]
- D. Murder accompanied by sexual assault; or [PL 2019, c. 113, Pt. B, §14 (NEW).]
- E. Conduct substantially similar to a crime listed in paragraphs A to D that is a crime under the laws of another jurisdiction. [PL 2019, c. 113, Pt. B, §14 (NEW).]

For purposes of determining whether a defendant is a repeat sexual assault offender, the date of sentencing is the date of the oral pronouncement of the sentence by the trial court, even if an appeal is taken.

"Accompanied by sexual assault" as used with respect to attempted murder, murder and crimes involving substantially similar conduct in another jurisdiction is satisfied if it was definitionally an element of the crime or was pleaded and proved.

[PL 2019, c. 113, Pt. B, §14 (NEW).]

2. Any term of years; mandatory sentence alternative. If the State pleads and proves that a crime under section 253 was committed against an individual who had not yet attained 12 years of age, the court shall impose a definite term of imprisonment for any term of years. 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 select a definite term of at least 20 years. The court shall also impose as part of the sentence a period of supervised release to immediately follow that definite term of imprisonment as mandated by section 1881, subsection 1.

[PL 2019, c. 113, Pt. B, §14 (NEW).]

3. Aggravating sentencing factors. The court shall treat the following as an aggravating sentencing factor.

A. If the State pleads and proves that a Class A crime of gross sexual assault was committed by an individual who had previously been convicted and sentenced for a Class B or Class C crime of unlawful sexual contact, or an essentially similar crime in another jurisdiction, the court, in determining the appropriate sentence, shall treat as an aggravating sentencing factor that prior conviction. [PL 2019, c. 113, Pt. B, §14 (NEW).]

B. If the State pleads and proves that a violation of section 253, subsection 1 or 2 was committed in a safe children zone, the court, in determining the appropriate sentence, shall treat this as an aggravating sentencing factor. [PL 2019, c. 113, Pt. B, §14 (NEW).]

C. In using a sentencing alternative involving a term of imprisonment for an individual convicted of violating section 253, a court, in determining the maximum period of incarceration as the 2nd step in the sentencing process specified in section 1602, subsection 1, paragraph B, shall treat each prior Maine conviction for a violation of section 253 as an aggravating sentencing factor.

- (1) When the sentencing class for a prior conviction under section 253 is Class A, the court shall enhance the basic period of incarceration by a minimum of 4 years of imprisonment.
- (2) When the sentencing class for a prior conviction under section 253 is Class B, the court shall enhance the basic period of incarceration by a minimum of 2 years of imprisonment.
- (3) When the sentencing class for a prior conviction under section 253 is Class C, the court shall enhance the basic period of incarceration by a minimum of one year of imprisonment. [PL 2019, c. 113, Pt. B, §14 (NEW).]

D. In arriving at the final sentence as the 3rd step in the sentencing process specified in section 1602, subsection 1, paragraph C, the court may not suspend that portion of the maximum term of incarceration based on a prior conviction. [PL 2019, c. 113, Pt. B, §14 (NEW).]

[PL 2019, c. 113, Pt. B, §14 (NEW).]

SECTION HISTORY

PL 2019, c. 113, Pt. B, §14 (NEW).

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