

**533.070 Sentencing of defendant to work at community service related projects.**

- (1) In any case where imprisonment is an authorized penalty and where imprisonment is not required by the statute relating to the crime committed, a court may, as a form of conditional discharge, sentence the defendant to work at community service related projects subject to the following terms and conditions:
  - (a) As used in this section, "community service related project" means work for the state or an agency thereof, for a county, urban-county government, city, special district, or an agency thereof or for a nonreligious-sponsored nonprofit, charitable, or service organization. Work on a community service related project shall not confer a private benefit on a person except as may be incidental to the public benefit.
  - (b) Before a defendant may be sentenced to a particular community service related project, the director of the agency or unit of government, or his designee, shall approve or disapprove, in writing, the defendant's work for that agency or unit of government. If the designated person refuses to accept the defendant, he shall not be sentenced to work for that agency. If possible, another agency shall be found which will accept the defendant. If no agency accepts the defendant, he shall be resentenced to an appropriate sentence authorized by law.
  - (c) No defendant shall be sentenced to unduly hazardous work that would endanger the life or health of the defendant or others.
  - (d) Any defendant may, for valid medical reason, decline to work on community service related projects. In this case, he shall be sentenced to another penalty authorized by law.
  - (e) The order of the sentencing court shall specify the agency for which the defendant shall work, the manner in which the defendant shall be worked, and the terms and conditions thereof. The agency shall provide the court with reports as to the defendant's labor and compliance with the terms of the sentence.
  - (f) If insurance is available, a defendant may pay the cost of health and accident insurance for the time he is engaged in a community service related project. This subsection shall not apply when the defendant has such insurance, if the defendant does not desire to obtain insurance or if insurance is either unavailable or beyond the means of the defendant to pay. The Commonwealth, a unit of government, a special district, or agency for which a defendant engages in community service related work shall not be liable for accidents, or medical, health, or other costs incurred by the defendant.
  - (g) Participation in community services related projects shall not be deemed employment for any purpose, and the defendant shall not be deemed an employee or agent of the entity for which he performs the community service work.
  - (h) If a defendant fails, without good cause, to show for work and labor according to the conditions of his sentence, the agency for which he is working shall

immediately report his failure to show for work or to work in accordance with the conditions of this sentence to the court.

- (2) If the defendant fails to show for work, fails to labor in accordance with the conditions of his sentence, or is terminated from his community service related work for any reason, the court shall hold a hearing to determine the cause of the noncompliance and may, if the noncompliance is the fault of the defendant, resentence the defendant to a penalty or combination of penalties authorized for the commission of the offense. If the noncompliance is not caused by the defendant or the defendant has a legitimate reason therefor, the court may find another agency or unit of government for which the defendant may labor or, regardless of the reason for noncompliance, continue the defendant in the community service related work program.
- (3) The length of time a defendant may be sentenced to a community service related work program shall not exceed:
  - (a) The length of the maximum imprisonment which is authorized for the commission of the offense, and in no case shall exceed five (5) years regardless of how many days the defendant works during that time.
  - (b) Ninety (90) days in the case of an offense for which a fine only or some penalty other than imprisonment is authorized. A day shall mean a calendar day or combination thereof during which the defendant engages in eight (8) hours of labor at a community service related work program.
- (4) While a prisoner may be sentenced to labor less time during a day, no prisoner shall be sentenced to work more than eight (8) hours in any one (1) day. While a prisoner may be sentenced to labor less time during a week, no prisoner shall be sentenced to work more than five (5) days during any one (1) week.
- (5) The Administrative Office of the Courts shall, with the approval of the Supreme Court, print and distribute all forms necessary for the community service related work program authorized by this section.
- (6) A court sentencing a defendant to a community service related work program shall, where possible, preserve the ordinary employment or educational programs in which the defendant is engaged by sentencing him to work at times other than those in which he is engaged in his regular employment or education.

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