

CHAPTER 7  
AUTHORIZED SENTENCES AND DISPOSITIONS

701. APPLICABILITY OF PROVISIONS

Rule 701 APPLICABILITY OF PROVISIONS

The sentences prescribed by these Rules shall apply in the case of every offense.

702. SENTENCING POLICIES

Rule 702 SENTENCING POLICIES

The sentencing policy of the Nation is to strive toward restitution and reconciliation of the offender and the victim and Nation. While one goal of sentencing is to impress upon the wrongdoer the wrong he has committed, the paramount goal is to restore the victim and Nation to the position that existed prior to the commitment of the offense, and to restore the offender to harmony with them and the community by requiring him to right his wrongdoing. With consideration of these goals in mind, the provisions of this Chapter shall govern sentencing for criminal offenses.

703. LENGTH OF SENTENCE

Rule 703 LENGTH OF SENTENCE

1. Felonies The court may sentence a person convicted of a felony to a term of imprisonment not to exceed one year and/or a fine not to exceed \$5,000.00.
2. Misdemeanors The Court may sentence a person convicted of a misdemeanor to a term of imprisonment not to exceed six months and/or a fine not to exceed \$2,500.00.
3. Violations The Court may sentence a person convicted of a violation to a term of imprisonment not to exceed three months and/or a fine not to exceed \$1,000.00.

704. AUTHORIZED DISPOSITIONS.

Rule 704 AUTHORIZED DISPOSITIONS.

- a. Whenever any person has been found guilty of a crime, the court may adjudge any of the following:

1. commit the defendant to a jail facility for the term provided by law;
2. impose the fine applicable to the offense;
3. release the defendant on probation if the circumstances are substantial and compelling, subject to such terms and conditions as the court may deem appropriate for a period not exceeding three (3) times the amount of the maximum sentence;
4. assign the defendant to a house arrest program;
5. order the defendant to attend and satisfactorily complete an alcohol or drug education or training program;
6. order the defendant to pay full or partial restitution;
7. impose any appropriate combination of (1), (2), (3), (4), (5), and (6); or
8. suspend imposition of sentence.

In addition to or in lieu of any of the above, the court may order the defendant to submit to and complete an alcohol and drug evaluation and pay the evaluation fee.

In imposing a fine the court may authorize payment in installments. The Court may allow the defendant to exchange actual work performed for the Nation or the victim in lieu of a fine at the rate of eight (8) hours of work per fifty dollars (\$50.00) of fine.

In releasing a defendant on probation, the court shall direct that the defendant be under the supervision of the Nation Probation Department. If the court commits the defendant to jail, the court may specify in its order the amount of restitution to be paid and the person to whom it shall be paid if restitution is later ordered as a condition of probation or parole.

The court in committing a defendant to a term or imprisonment shall fix the term of confinement within the limits provided by law. In those cases where the law does not fix a term of confinement for the crime for which the defendant was convicted, the court shall fix the term of such confinement.

- b. This section shall not deprive the court of any authority conferred by any other Nation statute to decree a forfeiture of property, suspend or cancel a license, or impose any other civil penalty as a result of a conviction of a crime.
- d. Acceptance of probation shall not constitute an acquiescence in the judgment for

purpose of appeal and any convicted person may appeal from such conviction, as provided by law, without regard to whether such person has requested probation or suspension of sentence.

## **705. PLACE OF IMPRISONMENT**

### **Rule 705 PLACE OF IMPRISONMENT**

The place of imprisonment shall be in a facility as designated by the Court.

## **706. CONCURRENT AND CONSECUTIVE TERMS OF IMPRISONMENT**

### **Rule 706 CONCURRENT AND CONSECUTIVE TERMS OF IMPRISONMENT**

The sentence or sentences imposed by the court shall run either concurrently or consecutively with respect to each other as the court directs at the time of sentence.

## **707. CALCULATION OF TERMS OF IMPRISONMENT**

### **Rule 707 CALCULATION OF TERMS OF IMPRISONMENT**

1. If the sentences run concurrently, the time served under imprisonment on any of the sentences shall be credited against the minimum periods of all the concurrent sentences, and the maximum terms merge in and are satisfied by discharge of the term which has the longest unexpired time to run;
2. If the sentences run consecutively, the minimum periods of imprisonment are added to arrive at an aggregate minimum period of imprisonment equal to the sum of all the minimum periods, and the maximum terms are added to arrive at an aggregate maximum term equal to the sum of all the maximum terms.
3. Good behavior time. Time allowances earned for good behavior, shall not exceed one-fourth of the maximum or aggregate maximum term.
4. Time served under vacated sentence. When a sentence of imprisonment that has been imposed on a person is vacated and a new sentence is imposed on such person for the same offense, or for an offense based upon the same act, the new sentence shall be calculated as if it had commenced at the time the vacated sentence commenced, and all time credited against the vacated sentence shall be credited against the new sentence.
5. Escape. When a person who is serving a sentence of imprisonment escapes from custody, the escape shall interrupt the sentence and such interruption shall continue until the return of the person to custody. Any time spent by

such person in custody from the date of escape to the date the sentence resumes shall be credited against the term or maximum term of the interrupted sentence, provided:

- A. That such custody was due to an arrest or surrender based upon the escape; or
  - B. That such custody arose from an arrest on another charge which culminated in a dismissal or an acquittal; or
  - C. That such custody arose from an arrest on another charge which culminated in a conviction, but in such case, if a sentence of imprisonment was imposed, the credit allowed shall be limited to the portion of the time spent in custody that exceeds the period, term or maximum term of imprisonment imposed for such conviction.
6. Deduction of time spent in confinement. In any criminal action in which the defendant is convicted upon a plea of guilty or trial by court or jury or upon completion of an appeal, the judge, if he sentences the defendant to confinement, shall direct that for the purpose of computing defendant's sentence and his or her parole eligibility and conditional release dates, that such sentence is to be computed from a date, to be specifically designated by the court in the sentencing order, such date shall be established to reflect and shall be computed as an allowance for the time which the defendant has spent incarcerated pending the disposition of the defendant's case. In recording the commencing date of such sentence, the date as specifically set forth by the court shall be used as the date of sentence and all good time allowances are to be allowed on such sentence from such date as though the defendant were actually incarcerated in any institution.

## 708. RELEASE ON PAROLE; CONDITIONAL RELEASE

### Rule 708 RELEASE ON PAROLE; CONDITIONAL RELEASE

1. Release on parole:
  - A. A person who is serving a sentence of imprisonment may be paroled at any time after the expiration of the minimum or the aggregate minimum period of imprisonment of the sentence or sentences. Release on parole shall be in the discretion of the Judge, and such person shall continue service of his sentence or sentences while on parole.
  - B. A person who is serving a term of imprisonment shall, if he so requests,

be conditionally released from jail when the total good behavior time allowed to him, is equal to or greater than the unserved portion of his maximum or aggregate maximum term. The conditions of release shall be such as may be imposed by the Judge in accordance with Nation law.

- C. Every person so released shall be under the supervision of the probation officer for a period equal to the unserved portion of the maximum or aggregate maximum term.
2. Conditional release shall interrupt service of the sentence or sentences and the remaining portion of the term or aggregate term shall be held in abeyance. Every person so released shall be under the supervision of the Nation probation officer. Compliance with the conditions of release during the period of supervision shall satisfy the portion of the term or aggregate term that has been held in abeyance.
  3. Violation of the terms of parole or conditional release shall result in the immediate incarceration of the person, subject to a due process hearing.