

Colorado's Deferred Judgement Law

Colorado's Deferred Judgement Law follows:

18-1.3-102. Deferred sentencing of defendant.

(1) (a) In any case in which the defendant has entered a plea of guilty, the court accepting the plea has the power, with the written consent of the defendant and his or her attorney of record and the district attorney, to continue the case for the purpose of entering judgment and sentence upon the plea of guilty for a period not to exceed four years for a felony or two years for a misdemeanor or petty offense or traffic offense. The period shall begin to run from the date that the court continues the case.

(b) The period may be extended for an additional time:

(I) Up to one hundred eighty-two days if the failure to pay restitution is the sole condition of supervision which has not been fulfilled, because of inability to pay, and the defendant has shown a future ability to pay. During such time, the court may place the defendant under the supervision of the probation department; or

(II) Up to two years if the deferred judgment is for an offense listed in section 16-11.7-102 (3), C.R.S., good cause is shown, and the district attorney and defendant consent to the extension.

(2) Prior to entry of a plea of guilty to be followed by deferred judgment and sentence, the district attorney, in the course of plea discussion as provided in sections 16-7-301 and 16-7-302, C.R.S., is authorized to enter into a written stipulation, to be signed by the defendant, the defendant's attorney of record, and the district attorney, under which the defendant is obligated to adhere to such stipulation. The conditions imposed in the stipulation shall be similar in all respects to conditions permitted as part of probation. A person convicted of a crime, the underlying factual basis of which included an act of domestic violence, as defined in section 18-6-800.3 (1), shall stipulate to the conditions specified in section 18-1.3-204 (2)(b). In addition, the stipulation may require the defendant to perform community or charitable work service projects or make donations thereto. Upon full compliance with such conditions by the defendant, the plea of guilty previously entered shall be withdrawn and the charge upon which the judgment and sentence of the court was deferred shall be dismissed with prejudice. The stipulation shall specifically provide that, upon a breach by the defendant of any condition regulating the conduct of the defendant, the court shall enter judgment and impose sentence upon the guilty plea; except that, if the offense is a violation of article 18 of this title, the court may accept an admission or find a violation of the stipulation without entering judgment and imposing sentence if the court first makes findings of fact on the record stating the entry of judgment and sentencing would not be consistent with the purposes of sentencing, that the defendant would be better served by continuing the deferred judgment period, and that public safety would not be jeopardized by the continuation of the deferred judgment. If the court makes those findings and continues the

deferred judgment over the objection of the prosecution, the court shall also impose additional and immediate sanctions upon the defendant to address the violation, to include, but not be limited to, the imposition of further terms and conditions that will enhance the likelihood of the defendant's success, respond to the defendant's noncompliance, and promote further individual accountability, including extending the time period of the deferred judgment for up to two additional years or incarceration in the county jail for a period not to exceed ninety days consistent with the provisions of section 18-1.3-202 (1), or both.

When, as a condition of the deferred sentence, the court orders the defendant to make restitution, evidence of failure to pay the restitution shall constitute prima facie evidence of a violation. Whether a breach of condition has occurred shall be determined by the court without a jury upon application of the district attorney or a probation officer and upon notice of hearing thereon of not less than seven days to the defendant or the defendant's attorney of record. Application for entry of judgment and imposition of sentence may be made by the district attorney or a probation officer at any time within the term of the deferred judgment or within thirty-five days thereafter. The burden of proof at the hearing shall be by a preponderance of the evidence, and the procedural safeguards required in a revocation of probation hearing shall apply.

(3) When a defendant signs a stipulation by which it is provided that judgment and sentence shall be deferred for a time certain, he or she thereby waives all rights to a speedy trial, as provided in section 18-1-405.

(4) A warrant for the arrest of any defendant for breach of a condition of a deferred sentence may be issued by any judge of a court of record upon the report of a probation officer, or upon the verified complaint of any person, establishing to the satisfaction of the judge probable cause to believe that a condition of the deferred sentence has been violated and that the arrest of the defendant is reasonably necessary. The warrant may be executed by any probation officer or by a peace officer authorized to execute warrants in the county in which the defendant is found.