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Chapter 19

Crimes Related to Traffic Offenses

This guideline applies to adult offenders (nineteen years of age or older) who committed any offense of Death and Injury by Traffic Accident (Traffic Accidents Act, Article 3, paragraph 1), Fleeing the Scene After Causing Death to the Victim by a Traffic Accident (or Death Of The Victim After The Accident-Causing Driver's Running Away) (Aggravated Punishment Act, Article 5-3, paragraph 1, subparagraph1), Fleeing After Causing Injury to the Victim by a Traffic Accident (or Injury of the Victim After the Accident-Causing Driver Flees the Scene) (Aggravated Punishment Act, Article 5-3, paragraph 1, subparagraph 2), Abandoning the Victim and Fleeing After Causing Death to the Victim by a Traffic Accident (or Death of the Victim After the Accident-Causing Driver's Abandoning and Fleeing of the Scene) (Aggravated Punishment Act, Article 5-3, paragraph 2, subparagraph 1), Abandoning the Victim and Fleeing After Causing Injury to the Victim by a Traffic Accident (Aggravated Punishment Act, Article 5-3, paragraph 2, subparagraph 2), and Death and Injury by Dangerous Driving (Aggravated Punishment Act, Article 5-11).

PART A — TYPES OF OFFENSES AND SENTENCING PERIODS

01 | GENERAL TRAFFIC ACCIDENT

TYPE	CLASSIFICATION	MITIGATED SENTENCING RANGE	STANDARD SENTENCING RANGE	AGGRAVATED SENTENCING RANGE
1	Injury by Traffic Accident	- 8 mos.	4 mos. - 1 yr.	8 mos. - 2 yrs.
2	Death by Traffic Accident	4 mos. - 1 yr.	8 mos. - 2 yrs.	1 yr. - 3 yrs.

* Imprisonment or With or Without Prison Labor

CLASSIFICATION		MITIGATING FACTOR	AGGRAVATING FACTOR
Special Sentencing Determinant	Conduct	<ul style="list-style-type: none"> • Cases where the victim is responsible for the occurrence and the extent of damage • Slight bodily injury (Type 1) • Accident caused while operating a bicycle 	<ul style="list-style-type: none"> • Grievous bodily injury (Type 1) • Driving Under the Influence of Drinking or etc. • Cases that fall under a certain saving clause of the Traffic Accident Act, Article 3, paragraph 2(excluding subparagraph 8) that embodies heavy illegality
Special Sentencing Determinant	Actor /Etc.	<ul style="list-style-type: none"> • Those with hearing and speaking impairments • Those with mental incapacity (cases where the offender cannot be held liable) • Offender expresses remorse, and the victim opposes punishment 	<ul style="list-style-type: none"> • Repeated offenses of the same type under the Criminal Act
General Sentencing Determinant	Conduct	<ul style="list-style-type: none"> • Free rider by the driver's favor 	<ul style="list-style-type: none"> • Serious bodily injuries which do not constitute grievous bodily injury (Type 1) • Other cases that fall under saving clause of the Traffic Accident Act, Article 3, paragraph 2

CLASSIFICATION		MITIGATING FACTOR	AGGRAVATING FACTOR
General Sentencing Determinant	Actor /Etc.	<ul style="list-style-type: none"> • Significant amount of money deposited • Comprehensive insurance coverage • Expresses genuine remorse • No prior criminal history 	<ul style="list-style-type: none"> • Concealing or attempting to conceal evidence after the crime • Repeated offenses of the different type under the Criminal Act or the criminal history of the same type of offense that does not constitute a repeated offense under the Criminal Act

02¹ TRAFFIC ACCIDENTS IN DUI

TYPE	CLASSIFICATION	MITIGATED SENTENCING RANGE	STANDARD SENTENCING RANGE	AGGRAVATED SENTENCING RANGE
1	Injury by Traffic Accidents in DUI	6 mos. - 1 yr. 6 mos.	10 mos. - 2 yrs. 6 mos.	2 yrs. - 5 yrs.
2	Death by Traffic Accidents in DUI	1 yr. 6 mos. - 3 yrs.	2 yrs. - 5 yrs.	4 yrs. - 8 yrs.

CLASSIFICATION		MITIGATING FACTOR	AGGRAVATING FACTOR
Special Sentencing Determinant	Conduct	<ul style="list-style-type: none"> • Cases where the victim is responsible for the occurrence and the extent of damage • Slight bodily injury (Type 1) 	<ul style="list-style-type: none"> • Grievous bodily injury (Type 1) • Cases that fall under a certain saving clause of the Traffic Accident Act, Article 3, paragraph 2(excluding subparagraph 8) that embodies heavy illegality
	Actor /Etc.	<ul style="list-style-type: none"> • Those with hearing and speaking impairments • Those with mental incapacity (cases where the offender cannot be held liable) • Offender expresses remorse, and the victim opposes punishment 	<ul style="list-style-type: none"> • Repeated offenses of the same type under the Criminal Act(Including Road Traffic Act, Article 148-2 violation crimes)

CLASSIFICATION		MITIGATING FACTOR	AGGRAVATING FACTOR
General Sentencing Determinant	Conduct	<ul style="list-style-type: none"> Free rider by the driver's favor 	<ul style="list-style-type: none"> Serious bodily injuries which do not constitute grievous bodily injury (Type 1) Other cases that fall under saving clause of the Traffic Accident Act, Article 3, paragraph 2
	Actor /Etc.	<ul style="list-style-type: none"> Significant amount of money deposited Comprehensive insurance coverage Expresses genuine remorse No prior criminal history 	<ul style="list-style-type: none"> Concealing or attempting to conceal evidence after the crime Repeated offenses of the different type under the Criminal Act, the criminal history of the same type of offense that does not constitute a repeated offense under the Criminal Act(Including Road Traffic Act, Article 148-2 violation crimes)

03 | FLEEING AFTER TRAFFIC ACCIDENT

TYPE	CLASSIFICATION	MITIGATED SENTENCING RANGE	STANDARD SENTENCING RANGE	AGGRAVATED SENTENCING RANGE
1	Fleeing After Causing Injury to the Victim by a Traffic Accident	6 mos. - 1 yr. 6 mos.	8 mos. - 2 yrs. 6 mos.	1 yr. - 5 yrs.
2	Abandoning the Victim and Fleeing After Causing Injury to the Victim by a Traffic Accident	1 yr. 6 mos. - 2 yrs. 6 mos.	2 yrs. - 4 yrs.	3 yrs. - 7 yrs.
3	Fleeing After Causing Death to the Victim by a Traffic Accident (Death of the Victim After the Accident-Causing Driver's Fleeing)	2 yrs. 6 mos. - 4 yrs.	3 yrs. - 5 yrs.	4 yrs. - 8 yrs.
4	Abandoning the Victim and Fleeing After Causing by a Traffic Accident (Death of the Victim After the Accident-Causing Driver's Abandoning and Fleeing)	3 yrs. - 5 yrs.	4 yrs. - 6 yrs.	5 yrs. - 10 yrs.

CLASSIFICATION		MITIGATING FACTOR	AGGRAVATING FACTOR
Special Sentencing Determinant	Conduct	<ul style="list-style-type: none"> • Cases where the victim is responsible for the occurrence and the extent of damage • Special considerations can be taken into account for engaging or participating in the offense (Type 1) • Slight bodily injury (Type 1, 2) 	<ul style="list-style-type: none"> • Grievous bodily injury or substantial risk to the victim's life occurred due to fleeing of the accident (Type 1, 2) • Driving Under the Influence of Drinking or etc. • Cases that fall under a certain saving clause of the Traffic Accident Act, Article 3, paragraph 2(excluding subparagraph 8) that embodies heavy illegality
Special Sentencing Determinant	Actor /Etc.	<ul style="list-style-type: none"> • Those with hearing and speaking impairments • Those with mental incapacity (cases where the offender cannot be held liable) • Voluntary surrender to investigative agencies • The victim opposes punishment (including genuine efforts to reverse the harm) 	<ul style="list-style-type: none"> • Repeated offenses of the same type under the Criminal Act
General Sentencing Determinant	Conduct		<ul style="list-style-type: none"> • Serious bodily injuries which do not constitute grievous bodily injury (Type 1, 2) • Other cases that fall under saving clause of the Traffic Accident Act, Article 3, paragraph 2
General Sentencing Determinant	Actor /Etc.	<ul style="list-style-type: none"> • Significant amount of money deposited • Comprehensive insurance coverage • Expresses genuine remorse • No prior criminal history 	<ul style="list-style-type: none"> • Repeated offenses of the different type under the Criminal Act, the criminal history of the same type of offense that do not constitute a repeated offense under the Criminal Act

DEFINITION OF OFFENSES

01 | GENERAL TRAFFIC ACCIDENTS

(1) TYPE 1 — INJURY BY TRAFFIC ACCIDENT

- This means offenses with the following statutory elements of the offense under the applicable law (This applies to all offenses).

ELEMENTS OF OFFENSE	APPLICABLE LAW
When a Driver of a Vehicle Causes Injury to the Victim by Traffic Accident Due to Negligence or Gross Negligence Committed Under Duty	Traffic Accident Act, Article 3, paragraph 1

(2) TYPE 2 — DEATH BY TRAFFIC ACCIDENT

ELEMENTS OF OFFENSE	APPLICABLE LAW
When a Driver of a Vehicle Causes Death to the Victim by Traffic Accident Due to Negligence or Gross Negligence Committed Under Duty	Traffic Accident Act, Article 3, paragraph 1

02 | TRAFFIC ACCIDENTS IN DUI

(1) TYPE 1 — INJURY BY TRAFFIC ACCIDENTS IN DUI

ELEMENTS OF OFFENSE	APPLICABLE LAW
When a Driver of a Vehicle Causes Injury to the Victim by Traffic Accident While Driving a Car Under the Condition Difficult to Drive Normally Due to the Influence of Drinking or Drugs	Aggravated Punishment Act, Article 5-11

(2) TYPE 2 — DEATH BY TRAFFIC ACCIDENTS IN DUI

ELEMENTS OF OFFENSE	APPLICABLE LAW
When a Driver of a Vehicle Causes death to the Victim by Traffic Accident While Driving a Car Under the Condition Difficult to Drive Normally Due to the Influence of Drinking or Drugs	Aggravated Punishment Act, Article 5-11

03¹ FLEEING AFTER THE OCCURRENCE OF THE TRAFFIC ACCIDENT

(1) TYPE 1 — FLEEING AFTER CAUSING INJURY TO THE VICTIM

ELEMENTS OF OFFENSE	APPLICABLE LAW
When the Offender Causing the Traffic Accident Flees	Aggravated Punishment Act, Article 5-3, paragraph 1, subparagraph 2

(2) TYPE 2 — ABANDONING THE VICTIM AND FLEEING AFTER CAUSING INJURY TO THE VICTIM

ELEMENTS OF OFFENSE	APPLICABLE LAW
When the Offender Causing the Traffic Accident Abandons the Victim and Flees	Aggravated Punishment Act, Article 5-3, paragraph 2, subparagraph 2

(3) TYPE 3 — FLEEING AFTER CAUSING DEATH TO THE VICTIM OR DEATH RESULTS TO THE VICTIM AFTER THE ACCIDENT-CAUSING DRIVER FLEES

ELEMENTS OF OFFENSE	APPLICABLE LAW
When the Offender Causing the Victim's Death Flees, or When Death Results After the Offender Flees	Aggravated Punishment Act, Article 5-3, paragraph 1, subparagraph 1

(4) TYPE 4 — ABANDONING THE VICTIM AND FLEEING AFTER CAUSING DEATH TO THE VICTIM OR DEATH RESULTS TO THE VICTIM AFTER THE ACCIDENT-CAUSING DRIVER ABANDONS AND FLEES

ELEMENTS OF OFFENSE	APPLICABLE LAW
When the Offender Causing the Victim's Death Abandons the Victim and Flees, or the Victim Dies After the Offender Abandoned the Victim	Aggravated Punishment Act, Article 5-3, paragraph 2, subparagraph 1

DEFINITION OF SENTENCING FACTORS

01 | GENERAL TRAFFIC ACCIDENTS/DANGEROUS DRIVING TRAFFIC ACCIDENTS

(1) CASES WHERE THE VICTIM IS ALSO RESPONSIBLE FOR THE OCCURRENCE AND THE EXTENT OF THE DAMAGE

- This applies to cases with one or more of the following factors:
 - Cases where it cannot be generally expected that the general driver could have foreseen such jaywalking by taken into conditions such as traffic condition, the surrounding situation, the time of the accident, or others
 - Cases where the victim's negligence, such as traffic signal violation is partially contributed to the occurrence of the accident
 - Other cases with comparable factors

(2) VICTIM OPPOSES PUNISHMENT (THIS INCLUDES GENUINE EFFORTS TO REVERSE THE HARM)

- This indicates cases in which the offender expresses remorse for committing the crime, and the family of the deceased victim or the victim acknowledges this and objects to punishing the offender.
- This includes cases in which an agreement was not reached with the deceased's family or the victim, and the offender deposited a considerable amount of money to reach an agreement with the family of the deceased or the victim as a genuine effort to reverse the harm(including Comprehensive vehicle insurance coverage).

(3) MINOR BODILY INJURIES (TYPE 1)

- This indicates cases in which the inflicted injury requires less than two weeks of medical care, affecting relatively limited bodily parts, which does not disrupt the day-to-day activities of the victim, and does not require medical intervention such as surgical stitches and the like.

(4) GRIEVOUS BODILY INJURIES (TYPE 1)

- Cases where the bodily injuries caused danger to the victim's life or caused the disability, incurable disease, or a disease that is difficult to cure.

(5) Driving Under the Influence of Drinking or etc.

- This indicates cases in which one or more following factors apply.
 - Cases which fall under the Traffic Accident Act, Article 3, paragraph 2, subparagraph 8
 - Cases where there was a refusal to take the Breathalyzer Test
 - ※ In this case, the offense shall not be considered multiple offenses but shall be regarded as a single offense that is a factor in adjusting the sentencing range

(6) CASES THAT FALL UNDER A CERTAIN SAVING CLAUSE OF THE TRAFFIC ACCIDENT ACT, ARTICLE 3, PARAGRAPH 2 THAT EMBODIES HEAVY ILLEGALITY

- This indicates cases in which one or more following factors apply. However, cases of Fleeing Without Taking Measures prescribed in Article 54, paragraph 1 of the Road Traffic Act or Fleeing After Abandoning the Victim are excluded.
 - Cases which fall under more than two cases of the Saving Clause
 - Cases which fall under Dangerous Driving stipulated in Road Traffic Act, Article 46-3
 - Other cases with comparable factors with one cases of the Saving Clause
 - ※ In this case, the offense shall not be considered multiple offenses but shall be regarded as a single offense that is a factor in adjusting the sentencing range.

(7) SERIOUS BODILY INJURIES WHICH DO NOT CONSTITUTE AS A GRIEVOUS BODILY INJURY (TYPE 1)

- This means where the recovery from the inflicted injury requires more than 4 to 5 weeks of medical care in general, including cases with after-effects causing impairment, severe disability resulting from the offense, injuries inflicted to vulnerable body parts, or further anticipated bodily injuries.

(8) OTHER CASES THAT FALL UNDER SAVING CLAUSE OF THE TRAFFIC ACT, ARTICLE 3, PARAGRAPH 2

- This means cases that fall under one of the cases in Saving Clause of Traffic Accident Act, Article 3, paragraph 2 excluding Fleeing Without Taking Measures

Prescribed in Article 54, paragraph 1 of the Road Traffic Act or Fleeing After Abandoning the Victim and Refusal to Take the Breathalyzer Test, and subparagraph 8.

- In case in which ‘Cases That Fall Under A Certain Saving Clause Of The Traffic Accident Act, Article 3, Paragraph 2 That Embodies Heavy Illegality’ is already applied, this is not considered as a general aggravating factor.
 - ※ In this case, the offense shall not be considered as multiple offenses but shall be regarded as a single offense that is a factor in adjusting the sentencing range.

(9) CRIMINAL HISTORY OF THE SAME TYPE OF OFFENSE

- This means the criminal history of traffic accident offense as set forth in the sentencing guideline.
- However, when the cases fall under the Traffic Accident Act, Article 3, paragraph 2 of the Saving Clause, subparagraph 8 or the Aggravated Punishment Act, Article 5-11, or when *Refusal to Take the Breathalyzer Test*, the criminal history of Drunk-Driving (including refusal to take the breathalyzer test) under the Road Traffic Act exists, then it shall be considered as a same type of offense.
- ‘Driving Under the Influence of Drinking or etc.’ includes Road Traffic Act, Article 46-3

02¹ FLEEING AFTER THE OCCURRENCE OF A TRAFFIC ACCIDENT

(1) SPECIAL CONSIDERATION CAN BE TAKEN INTO ACCOUNT FOR ENGAGING IN OFFENSE (TYPE 1)

- This applies to cases with one or more of the following factors:
 - Cases where the necessity of rescuing the victim was objectively slight according to the details and situations of the accident, the extent of the external injury, the age of the victim, and the pain and appeal of medical treatment by the victim
 - Other cases with comparable factors

(2) GRIEVOUS BODILY INJURIES OR SERIOUS DANGER TO THE VICTIM'S LIFE CAUSED BY THE DRIVER'S FLEEING (TYPE 1, 2)

- This applies to cases with one or more of the following factors:
 - Cases where the bodily injuries of the victim caused danger to life or caused the disability, incurable diseases or disease that is difficult to cure (Type 1, 2)
 - When the offender ran away, abandoning the victim on a road with heavy traffic and therefore causing serious danger to the victim's life (Type 1)
 - Other cases with comparable factors

ASSESSING PRINCIPLES APPLICABLE TO SENTENCING FACTORS

01 | DETERMINING THE SENTENCING RANGE

- When determining the appropriate sentencing range, the court must consider only the special sentencing determinants.
- However, in cases involving more than two special sentencing determinants, the applicable sentencing range is adjusted after assessing the factors as set forth below:
 - ① The same number of conduct factors shall be considered with greater significance than the actor or other factors.
 - ② The same number of conduct factors reciprocally, or the actor, or other factors reciprocally shall be treated as the same.
 - ③ If the sentencing range applicable cannot be determined by the aforementioned principles in ① and ②, the court is to decide the sentencing range by a comprehensive comparison and assessment based on the principles set forth in ① and ②.
- After an assessment, if a greater number of aggravating factors than the mitigating factors exist, then the aggravating zone is recommended when determining the sentencing range. If a greater number of mitigating factors exist, then a mitigating sentencing range is recommended. For other cases, the standard sentencing range is recommended.

02 | DETERMINING THE SENTENCE APPLICABLE

- In determining the sentence, the court should consider comprehensively both the general and special sentencing determinants that are within the sentencing range as assessed under above 1.

GENERAL APPLICATION PRINCIPLES

01 | SPECIAL ADJUSTMENTS TO THE SENTENCING RANGE

- ① When only two or more special aggravating factors apply, or the special sentencing determinant outnumber the special mitigating determinants by two or more, then increase the maximum level of the recommended sentencing range up to $\frac{1}{2}$.
- ② When only two or more special mitigating factors apply, or the special sentencing determinant outnumber the special aggravating determinants by two or more, then reduce the minimum level of the recommended sentencing range down to $\frac{1}{2}$.

02 | RELATION BETWEEN THE RECOMMENDED SENTENCING RANGE UNDER THE GUIDELINES AND THE APPLICABLE SENTENCING RANGE BY LAW

- When the sentencing range under this guideline conflicts with the range determined according to the aggravation and mitigation of the applicable law, the sentencing range prescribed by the applicable law shall govern.

03 | APPLICATION OF STATUTORY MITIGATING FACTORS AS DISCRETIONARY

- When the court declines to apply a permissive mitigating factor under applicable law as listed in this guideline's sentencing table, the factor shall be treated as a discretionary mitigating factor.

GUIDELINES ON SENTENCING MULTIPLE OFFENSES

01 | APPLICABLE SCOPE

- This section applies to concurrent crimes prescribed in the first part of Article 37 of the Criminal Act. However, when concurrent crimes under the first part of Article 37 of the Criminal Act involve an offense set forth in the sentencing guidelines, as well as an offense the sentencing guidelines do not cover, then the minimum level should be the minimum of the sentencing range of the offense that is set forth in this sentencing guideline.

02 | DETERMINING THE BASE OFFENSE

- The “base offense” indicates the most severe offense that results after selecting the penalty and determining the statutory aggravation and mitigation. However, in cases in which the maximum sentencing range is lower than that of the maximum sentencing range of the other offense as set forth in this guideline, the offense resulting in the concurrent crime becomes the base offense.

03 | CALCULATING THE SENTENCING RANGE

- To calculate the sentence of an offender convicted of multiple offenses that is not treated as a single offense under this guideline, the court shall apply the following principles:
 - ① In setting the sentencing range for an offender convicted of two offenses, the sentencing range should be the total sum of the maximum sentencing range of the base offense and the $\frac{1}{2}$ of the maximum sentencing range of the second offense.

- ② In setting the sentencing range for an offender convicted of three or more offenses, the sentencing range should be the total sum of the following: (1) of the maximum sentencing range of the base offense, sum of $\frac{1}{2}$ of the maximum sentencing range of the offense with the highest sentencing range, and (2) $\frac{1}{3}$ of the maximum sentencing range of the remaining offense with the second-highest sentencing range.
- ③ For cases in which the minimum sentencing range of the other offense is higher than that of the base offense, the minimum sentencing range resulting from the multiple offense should be the minimum sentencing range of the other offense.

PART B — GUIDELINE ON SUSPENDING A SENTENCE

CLASSIFICATION	ADVERSE	AFFIRMATIVE
Primary Consideration Factor	<ul style="list-style-type: none"> • Resulting in death, grievous injuries or causing serious danger to the victim’s life by fleeing • Abandoning the victim and fleeing after the occurrence of the traffic accident • Cases that fall under a certain saving clause of the Traffic Accident Act, Article 3, paragraph 2 that embodies heavy illegality • Criminal history of the same offense (suspension of a sentence or more severe punishment within five years; or more than three incidents of fines) 	<ul style="list-style-type: none"> • Cases where the victim is also substantially responsible for the occurrence of the accident or the extent of damage • Slight bodily injuries • Accident caused by operating a bicycle (limited to cases of general accidents) • Victim opposes punishment • No prior criminal history
General Consideration Factor	<ul style="list-style-type: none"> • Two or more criminal history on the suspension of sentence or for a greater offense • Other cases that fall under the Traffic Accident Act, Article 3, paragraph 2 saving clause • Destroying evidence or attempting to conceal evidence after the commission of the offense • Lack of social ties • Drug or alcohol addiction • Absence of efforts to reverse the harm • Absence of remorse 	<ul style="list-style-type: none"> • Strongly established social ties • Voluntary surrender to investigative agencies (crimes of fleeing the traffic accident scene) • Expresses sincere remorse • No criminal history of the suspension of sentence or imposing of other sentences more severe • Cases of elderly offenders • Cases of physically ill offenders • Offender’s passive participation as an accomplice • Cases where the arrest of the offender would cause severe hardship to the offender’s dependent family member • Comprehensive vehicle insurance coverage • Significant amount of money deposited

DEFINITIONS OF FACTORS TO CONSIDER IN SUSPENDING A SENTENCE

- In cases in which the factors to consider in suspending a sentence and the sentencing factors are identical, refer to the definitions set forth in the *Definition of Sentencing Factors*.
- Cases That Fall Under A Certain Saving Clause Of The Traffic Accident Act, Article 3, Paragraph 2 That Embodies Heavy Illegality
 - This indicates cases in which one or more following factors apply. However, cases of Fleeing Without Taking Measures prescribed in Article 54, paragraph 1 of the Road Traffic Act or Fleeing After Abandoning the Victim are excluded.
 - Cases which fall under the Traffic Accident Act, Article 3, paragraph 2, subparagraph 8 or Aggravated Punishment Act, Article 5-11
 - Cases where there was a refusal to take the Breathalyzer Test
 - Cases which fall under more than two cases of the Saving Clause
 - Cases which fall under Dangerous Driving stipulated in Road Traffic Act, Article 46-3
 - Other cases with comparable factors with one cases of the Saving Clause
- Determining Criminal History
 - Prior criminal history is calculated as follows: In cases that involve a suspension of the sentence, the prior criminal history is calculated from the date the defendant's suspension of the sentence was affirmed until the date of the commission of the offense. In cases that impose imprisonment, prior criminal history is calculated from the final date of the completion of the sentence up to the date the offense was committed.

ASSESSING PRINCIPLES APPLICABLE TO THE FACTORS TO CONSIDER IN SUSPENDING A SENTENCE

- In deciding whether the suspension of a sentence is appropriate in cases in which imprisonment is imposed, the court should give the primary consideration factor greater importance than the general consideration factors. The following principles should be considered:
 - ① In cases in which only two or more primary affirmative factors exist or when the primary affirmative factors outnumber the major adverse factors by two or more, it is recommended to suspend the sentence.
 - ② In cases in which two or more primary adverse factors exist or when the primary adverse factors outnumber the primary affirmative factor by two or more, imprisonment is recommended.
 - ③ In cases in which ① or ② apply, but the difference between the number of general adverse (affirmative) factors and general affirmative (adverse) factors is greater than the difference between the number of primary affirmative (adverse) factors and primary adverse (affirmative) factors, or in cases other than ① or ②, the court shall decide whether to suspend the sentence after comparing and assessing the factors listed under the suspension of sentence section comprehensively.