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Chapter 27

Crimes of Illegal Arrest, Confinement, Abandonment, and Abuse

This guideline applies to adult offenders (nineteen years of age or older) who committed any of the following offenses; Illegal arrest or Confinement (Criminal Act, Article 267, paragraph 1), Illegal Arrest or Confinement of Lineal Ascendant (Criminal Act, Article 267, paragraph 2), Aggravated False Arrest or Aggravated Illegal Confinement (Criminal Act, Article 277, paragraph 1), Aggravated Illegal Arrest or Confinement of Lineal Ascendant (Criminal Act, Article 277, paragraph 2), Special False Arrest or Illegal Confinement, Special False Arrest or Confinement of Lineal Ascendant, Special Aggravated Arrest or Confinement, Special False Arrest or Confinement of Lineal Ascendant (Criminal Act, Article 278), Habitual Illegal Arrest or Confinement, Habitual Illegal Arrest or Confinement of Lineal Ascendant, Habitual Aggravated Illegal Arrest or Confinement, Habitual Aggravated Illegal Arrest or Confinement of Lineal Ascendant (Criminal Act, Article 279), Death or Injury caused by Arrest or Confinement, Aggravated Death or Injury caused by Aggravate Arrest or Confinement, Death or Injury caused by Aggravated Arrest or Confinement,

Death or Injury caused by Special Aggravated Arrest or Confinement (Criminal Act, Article 281, paragraph 1 (full text)), Death or Injury caused by Arrest or Confinement, Death or Injury caused by Aggravate Arrest or Confinement of linear Ascendant, Death or Injury caused by Aggravated Arrest or Confinement of Lineal Ascendant, Death or Injury caused by Special Aggravated Arrest or Confinement (Criminal Act, Article 281, paragraph 2 (full text)), Death caused by Arrest or Confinement, Death caused by Aggravated Arrest or Confinement, Death caused by Special Arrest or Confinement, Death caused by Special Aggravated Arrest or Confinement, Death caused by Habitual Arrest or Confinement, Death caused by Habitual Aggravated Arrest or Confinement (Criminal Act, Article 281, paragraph 1, latter part of the text), Death or Injury caused by Arrest or Confinement of Lineal Ascendant, Death or Injury caused by Aggravated Arrest or Confinement of linear Ascendant, Death or Injury caused by Special Arrest or Confinement of Lineal Ascendant, Death or Injury caused by Special Aggravated Arrest or Confinement of Lineal Ascendant, Death or Injury caused by Habitual Arrest or Confinement of Lineal Ascendant, Death or Injury caused by Habitual Aggravated Arrest or Confinement of Lineal Ascendant (Criminal Act, Article 281, paragraph 2, latter part of the text), Arrest or Confinement Committed by Two or More Persons Jointly, Arrest or Confinement of Lineal Ascendant Committed by Two or More Persons Jointly (Punishment of Violence, Etc. Act, Article 2, paragraph 2), Arrest or Confinement by the Person Committing the Offense Repeatedly (Punishment of Violence, Etc. Act, Article 2, subparagraph 3), Special Arrestment or Confinement, or Special Arrestment or Confinement of Lineal Ascendant by the Person Committing the Offense Repeatedly (Punishment of Violence, Etc. Act, Article 3, paragraph 4), Arrest or Confinement with the intent to retaliate (Act on the Aggravated Punishment, Article 5-9, paragraph 2), Death Resulting from Arrest or Confinement Committed with Intent to Retaliate (Act on the Aggravated

Punishment, Article 5-9, paragraph 3), Abandonment (Criminal Act, Article 271, paragraph 1), Abandonment of Lineal Ascendant (Criminal Act, Article 271, paragraph 2), Aggravated Abandonment (Criminal Act, Article 271, paragraph 3), Aggravated Abandonment of Lineal Ascendant (Criminal Act, Article 271, paragraph 4), Abandoning Baby (Criminal Act, Article 272), Cruelty to Another (Criminal Act, Article 273, paragraph 1), Cruelty to Lineal Ascendant (Criminal Act, Article 273, paragraph 2), Injury Caused by Abandonment, Aggravated Injury Caused by Abandonment, Injury of Baby Caused by Abandonment, Injury Caused by Cruelty (Criminal Act 275, paragraph 1, latter part of the text), Injury of Lineal Ascendant Caused by Abandonment, Aggravated Injury Caused of Lineal Ascendant by Abandonment, or Injury of Lineal Ascendant Caused by Cruelty (Criminal Act, Article 275, paragraph 2, latter part of the text), Death Caused by Abandonment, Death Caused by Aggravated Abandonment, Death of Baby Caused By Abandonment, Death Caused by Cruelty (Criminal Act, Article 275, paragraph 1, latter part of the text), Death Resulted from Abandonment of Lineal Ascendant, Death Resulted from Aggravated Abandonment of Lineal Ascendant, Death Resulted from Cruelty to Lineal Ascendant (Criminal Act, Article 2, paragraph 2, latter part of the text), Child Abandonment or Child Abuse under Child Welfare Act (Child Welfare Act, Article 71, paragraph 1, subparagraph 2, Article 72), Abandonment of the Elderly or Abuse Toward the Elderly under Welfare of Senior Citizens Act (Welfare of Senior Citizens Act, Article 55-2, Article 55-3, paragraph 1, subparagraph 2), Abuse Toward Youth Prescribed in Youth Protection Act (Youth Protection Act 57), Death Resulting from Child Abuse (Act on Special Cases Concerning the Punishment, Etc. of Child Abuse Crimes, Article 4), Abuse of, and Aggravated Bodily Injury on Children (Act on Special Cases Concerning the Punishment, Etc. of Child Abuse Crimes, Article 5).

PART A – TYPES OF OFFENSES AND SENTENCING PERIODS

01 | CASES OF ARREST OR CONFINEMENT

1. GENERAL APPLICABLE PRINCIPLES

TYPE	CLASSIFICATION	MITIGATED SENTENCING RANGE	STANDARD SENTENCING RANGE	AGGRAVATED SENTENCING RANGE
1	General Arrest or Confinement	- 8 mos.	6 mos. - 1 yr.	8 mos. - 2 yrs.
2	Arrest or Confinement for the Purpose of Retaliation	4 mos. - 1 yr. 4 mos.	10 mos. - 2 yrs.	1 yr. - 2 yrs. 6 mos.
3	Arrest or Confinement by Repeated Offender	6 mos. - 1 yr. 6 mos.	10 mos. - 3 yrs.	1 yr. 6 mos. - 4 yrs.

CLASSIFICATION		MITIGATING FACTOR	AGGRAVATING FACTOR
Special Sentencing Determinant	Conduct	<ul style="list-style-type: none"> Cases where offenses were committed with willful negligence Cases where the extent of arrest or confinement is extremely slight Special considerations can be taken into account for engaging in the offense Consideration can be taken into account for motives to commit a crime The victim was released to a safe location voluntarily 	<ul style="list-style-type: none"> Active role in orchestrating the commission of the crime (excluding Type 3 offenses) Cases where offenders committed the crimes through the threat of collective force or by carrying a dangerous weapon The offense committed toward an indiscriminate number of people or victims or repeatedly for a prolonged period The victim is a lineal ascendant The offender cruelly treat a person as prescribed in the Criminal Act, Article 277, paragraph 1 Condemnable motives (This does not apply to Type 2 offenses) Cases where the extent of arrest or confinement is serious Victim was vulnerable to crime



CLASSIFICATION		MITIGATING FACTOR	AGGRAVATING FACTOR
			<ul style="list-style-type: none"> • Instigating the subordinate person to commit the offense
	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 or cases of whistleblowing • Victim opposes punishment of the offender 	<ul style="list-style-type: none"> • Repeated offenses of the same type under the Criminal Act (This excludes Type 3 offenses) • Child abuse committed by a person having a duty to report child abuse, prescribed in the Act on Special Cases Concerning the Punishment, etc. of Child Abuse Crimes, Article 7 • Repeated offenses of the same type under the Criminal Act
General Sentencing Determinant	Conduct	<ul style="list-style-type: none"> • Passive participation 	<ul style="list-style-type: none"> • Two or more co-offenders • Premeditated crime
	Actor/ Etc.	<ul style="list-style-type: none"> • Those with mental incapacity (cases where the offender can be held liable) • The offender expresses sincere remorse • No prior criminal history 	<ul style="list-style-type: none"> • Repeated offenses of the different type under the Criminal Act that do not constitute repeated offenses, the criminal history of imprisonment by the same type of offenses or by the crime of violence that does not constitute a repeated offense under the Criminal Act (This applies when the criminal history is within ten years after completion of sentence)

▷ Apply the following classification in cases in which the crime of violence was committed while intoxicated by the use of alcohol or drugs (including cases of habitual crimes of extortion, repeated offense of extortion, special offense of extortion):

- ① Cases where the offender voluntarily induced intoxication by taking alcohol or drugs and where the offender intended or foresaw the crime or attempted to use the condition as a ground for exemption, intoxication is considered as a general aggravating factor regardless of the fact that the offender was in a state of diminished mental capacity at the time of the crime.
- ② Even if the cases do not fall within ①, intoxication should not be taken into account as a mitigating factor unless the offender's mental state at the time of the crime constitutes those with mental incapacity.

2. CASES RESULTING IN BODILY INJURIES

CLASSIFICATION	MITIGATED SENTENCING RANGE	STANDARD SENTENCING RANGE	AGGRAVATED SENTENCING RANGE
Injuries Caused by Arrest or Confinement	6 mos. - 1 yr. 6 mos.	1 yr. - 2 yrs.	1 yr. 6 mos. - 3 yrs.

CLASSIFICATION	MITIGATING FACTOR	AGGRAVATING FACTOR
Special Sentencing Determinant	<p>Conduct</p> <ul style="list-style-type: none"> • Cases where offenses were committed with willful negligence • Cases where the extent of arrest or confinement is extremely slight • Special considerations can be taken into account for engaging in the offense • Consideration can be taken into account for motives to committing the crime • Victim released to a safe location voluntarily • Minor bodily injuries • Bodily injuries resulted from the base offense of attempt 	<ul style="list-style-type: none"> • Active role in orchestrating the commission of the crime (excluding Type 3 offenses) • Cases where offenders committed the crimes through the threat of collective force or by carrying a dangerous weapon • The offense committed toward an indiscriminate number of people or victims or repeatedly for a prolonged period • The victim is a lineal ascendant • The offender cruelly treat a person as prescribed in the Criminal Act, Article 277, paragraph 1 • Condemnable motives • Cases where the extent of arrest or confinement is serious • The victim is vulnerable to crime • Serious bodily injuries • Instigating the subordinate person to commit the offense
	<p>Actor/ Etc.</p> <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 or cases of whistleblowing • Victim opposes punishment (This includes genuine efforts to recover damages) 	<ul style="list-style-type: none"> • Repeated offenses of the same type under the Criminal Act • Cases where the offender, having a duty to report child abuse, committed a crime of child abuse as defined in Article 7 of the Act on Special Cases Concerning the Punishment of Child Abuse Crimes • Habitual offenders



CLASSIFICATION		MITIGATING FACTOR	AGGRAVATING FACTOR
General Sentencing Determinant	Conduct	<ul style="list-style-type: none"> Passive participation 	<ul style="list-style-type: none"> Two or more co-offenders Premeditated crime
	Actor/ Etc.	<ul style="list-style-type: none"> Those with mental incapacity (cases where the offender can be held liable) The offender expresses sincere remorse No prior criminal history 	<ul style="list-style-type: none"> Repeated offenses of the different type under the Criminal Act that do not constitute repeated offenses, the criminal history of imprisonment by the same type of offenses or by the crime of violence that does not constitute a repeated offense under the Criminal Act (This applies when the criminal history is within ten years after completion of sentence)

3. CASES RESULTING IN DEATH

CLASSIFICATION	MITIGATED SENTENCING RANGE	STANDARD SENTENCING RANGE	AGGRAVATED SENTENCING RANGE
Arrest or Confinement Resulting in Death	1 yr. 6 mos. - 3 yrs.	2 yrs. - 4 yrs.	3 yrs. - 5 yrs.

CLASSIFICATION		MITIGATING FACTOR	AGGRAVATING FACTOR
Special Sentencing Determinant	Conduct	<ul style="list-style-type: none"> Cases where offenses were committed with willful negligence Special considerations can be taken into account for engaging in the offense Consideration can be taken into account for motives to committing the crime The offender's conduct was not a direct cause of death 	<ul style="list-style-type: none"> Active role in orchestrating the commission of the crime (excluding Type 3 offenses) Cases where offenders committed the crimes through the threat of collective force or by carrying a dangerous weapon The offense committed toward an indiscriminate number of people or victims or repeatedly for a prolonged period The victim is a lineal ascendant The offender cruelly treat a person as prescribed in the Criminal Act, Article 277, paragraph 1 Condemnable motives

CLASSIFICATION		MITIGATING FACTOR	AGGRAVATING FACTOR
			<ul style="list-style-type: none"> • Cases where the extent of arrest or confinement is serious • The victim is vulnerable to crime • Instigating the subordinate person to commit the offense
	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 or cases of whistleblowing • Victim opposes punishment (This includes genuine efforts to recover damages) 	<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"> • Passive participation 	<ul style="list-style-type: none"> • Two or more co-offenders • Premeditated crime
	Actor/ Etc.	<ul style="list-style-type: none"> • Those with mental incapacity (cases where the offender can be held liable) • The offender expresses sincere remorse • No prior criminal history 	<ul style="list-style-type: none"> • Repeated offenses of the different type under the Criminal Act that do not constitute repeated offenses, the criminal history of imprisonment by the same type of offenses or by the crime of violence that does not constitute a repeated offense under the Criminal Act (This applies when the criminal history is within ten years after completion of sentence)

02¹ ABANDONMENT, MALTREATMENT

1. GENERAL APPLICABLE PRINCIPLES

TYPE	CLASSIFICATION	MITIGATED SENTENCING RANGE	STANDARD SENTENCING RANGE	AGGRAVATED SENTENCING RANGE
1	General Abandonment, Abuse	- 8 mos.	2 mos. - 1 yr.	6 mos. - 1 yr. 6 mos.
2	Serious Abandonment, Abuse	2 mos. - 1 yr.	6 mos. - 1 yr. 6 mos.	1 yr. - 2 yrs.

CLASSIFICATION		MITIGATING FACTOR	AGGRAVATING FACTOR
Special Sentencing Determinant	Conduct	<ul style="list-style-type: none"> • Cases where offenses were committed with willful negligence • Cases where the extent of abandonment or abuse is exceptionally slight • Special considerations can be taken into account for engaging in the offense • The motive for committing offense can be taken into consideration 	<ul style="list-style-type: none"> • Crimes committed against multiple victims or for a prolonged and repeated period • Victim is a lineal ascendant • Condemnable motives (This does not apply to Type 2 offenses) • Cases where the extent of abandonment or abuse is serious • Instigating the subordinate person to commit the offense
	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 or cases of whistleblowing • The victim opposes punishment (This includes genuine efforts to recover damages) 	<ul style="list-style-type: none"> • Repeated offenses of the same type under the Criminal Act • Cases where the offender, having a duty to report child abuse, committed a crime of child abuse as defined in Article 7 of the Act on Special Cases Concerning the Punishment of Child Abuse Crimes • Habitual offenders (This only applies to habitual offenders subject to aggravated punishment under Article 72 of the Child Welfare Act or Article 6 of the Act on Special Cases Concerning the Punishment of Child Abuse Crimes of Child Abuse Crimes)

CLASSIFICATION		MITIGATING FACTOR	AGGRAVATING FACTOR
General Sentencing Determinant	Conduct	<ul style="list-style-type: none"> • Passive participation 	<ul style="list-style-type: none"> • Premeditated crime
	Actor/ Etc.	<ul style="list-style-type: none"> • Those with mental incapacity (cases where the offender can be held liable) • The offender expresses sincere remorse • No prior criminal history 	<ul style="list-style-type: none"> • Repeated offenses of the different type under the Criminal Act that do not constitute repeated offenses, the criminal history of imprisonment by the same type of offenses or by the crime of violence that does not constitute a repeated offense under the Criminal Act (This applies when the criminal history is within ten years after completion of sentence)

2. MALTREATMENT RESULTING IN BODILY INJURIES

CLASSIFICATION	MITIGATED SENTENCING RANGE	STANDARD SENTENCING RANGE	AGGRAVATED SENTENCING RANGE
Abandonment or Injury Caused by Maltreatment	2 mos. - 1 yr. 6 mos.	6 mos. - 2 yrs.	1 yr. - 3 yrs.

CLASSIFICATION		MITIGATING FACTOR	AGGRAVATING FACTOR
Special Sentencing Determinant	Conduct	<ul style="list-style-type: none"> • Cases where offenses were committed with willful negligence • Cases where the extent of abandonment or abuse is exceptionally slight • Special considerations can be taken into account for engaging in the offense • The motive for committing offense can be taken into consideration • Minor bodily injuries 	<ul style="list-style-type: none"> • Crimes committed against multiple victims or committed for a prolonged period and repeatedly • Victim is a lineal ascendant • Condemnable motive exists • Cases where the extent of abandonment or maltreatment is serious • Serious bodily injuries • Instigating the subordinate person to commit the offense
	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 	<ul style="list-style-type: none"> • Repeated offenses of the same type under the Criminal Act • Cases where the offender, having a duty to report child abuse, committed a crime of child abuse as defined in the Act on Special



CLASSIFICATION		MITIGATING FACTOR	AGGRAVATING FACTOR
		investigative agencies or cases of whistleblowing <ul style="list-style-type: none"> The victim opposes punishment (This includes genuine efforts to recover damages) 	Cases Concerning the Punishment of Child Abuse Crimes, Article 7 <ul style="list-style-type: none"> Habitual offenders (This only applies to habitual offenders subject to aggravated punishment under Article 6 of the Act on Special Cases Concerning the Punishment of Child Abuse Crimes of Child Abuse Crimes)
General Sentencing Determinant	Conduct	<ul style="list-style-type: none"> Passive participation 	<ul style="list-style-type: none"> Premeditated crime
	Actor/ Etc.	<ul style="list-style-type: none"> Those with mental incapacity (cases where the offender can be held liable) The offender expresses sincere remorse No prior criminal history exists 	<ul style="list-style-type: none"> Repeated offenses of the different type under the Criminal Act that do not constitute repeated offenses, the criminal history of imprisonment by the same type of offenses or by the crime of violence that does not constitute a repeated offense under the Criminal Act (This applies when the criminal history is within ten years after completion of sentence)

3. ABANDONMENT OR MALTREATMENT RESULTING IN DEATH

CLASSIFICATION	MITIGATED SENTENCING RANGE	STANDARD SENTENCING RANGE	AGGRAVATED SENTENCING RANGE
Abandonment or Maltreatment Resulting in Death	1 yr. 6 mos. - 3 yrs.	2 yrs. - 4 yrs.	3 yrs. - 5 yrs.

CLASSIFICATION		MITIGATING FACTOR	AGGRAVATING FACTOR
Special Sentencing Determinant	Conduct	<ul style="list-style-type: none"> Cases where offenses were committed with willful negligence Special considerations can be taken into account for engaging in the offense Consideration can be taken into account for motives to committing the crime The offender's conduct was not the direct cause of death 	<ul style="list-style-type: none"> Crimes committed against multiple victims or for a prolonged and repeated period Victim is a lineal ascendant Condemnable motives Cases where the extent of abandonment or abuse is serious Instigating the subordinate person to commit the offense

CLASSIFICATION		MITIGATING FACTOR	AGGRAVATING FACTOR
	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 or cases of whistleblowing • The victim opposes punishment (This includes genuine efforts to recover damages) 	<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"> • Passive participation 	<ul style="list-style-type: none"> • Premeditated crime
	Actor/ Etc.	<ul style="list-style-type: none"> • Those with mental incapacity (cases where the offender can be held liable) • The offender expresses sincere remorse • No prior criminal history 	<ul style="list-style-type: none"> • Repeated offenses of the different type under the Criminal Act that do not constitute repeated offenses, the criminal history of imprisonment by the same type of offenses or by the crime of violence that does not constitute a repeated offense under the Criminal Act (This applies when the criminal history is within ten years after completion of sentence)



03 | ABUSE OF AND AGGRAVATED BODILY INJURY ON CHILDREN OR DEATH RESULTING FROM CHILD ABUSE UNDER THE ACT ON SPECIAL CASES CONCERNING THE PUNISHMENT, ETC. OF CHILD ABUSE CRIMES

TYPE	CLASSIFICATION	MITIGATED SENTENCING RANGE	STANDARD SENTENCING RANGE	AGGRAVATED SENTENCING RANGE
1	Aggravated Bodily Injury on Children	1 yr. 6 mos. - 3 yrs.	2 yrs. 6 mos. - 5 yrs.	4 yrs. - 8 yrs.
2	Death Resulting From Child Abuse	2 yrs. 6 mos. - 5 yrs.	4 yrs. - 7 yrs.	6 yrs. - 10 yrs.

CLASSIFICATION		MITIGATING FACTOR	AGGRAVATING FACTOR
Special Sentencing Determinant	Conduct	<ul style="list-style-type: none"> Cases where offenses were committed with willful negligence Special considerations can be taken into account for engaging in the offense Consideration can be taken into account for motives to committing the crime The offender's conduct was not the direct cause of death 	<ul style="list-style-type: none"> Crimes committed against multiple victims or for a prolonged and repeated period Condemnable motives Cases where the extent of the abuse on children is serious Instigating the subordinate person to commit the offense
	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 or cases of whistleblowing Victim opposes punishment (This includes genuine efforts to recover damages) 	<ul style="list-style-type: none"> Cases where the offender, having a duty to report child abuse, committed a crime of child abuse as defined in Article 7 of the Act on Special Cases Concerning the Punishment of Child Abuse Crimes Repeated offenses of the same type under the Criminal Act
General Sentencing Determinant	Conduct	<ul style="list-style-type: none"> Passive participation 	<ul style="list-style-type: none"> Premeditated crime Offenses committed to a child who is 6 years old or less

CLASSIFICATION		MITIGATING FACTOR	AGGRAVATING FACTOR
	Actor/ Etc.	<ul style="list-style-type: none"> • Those with mental incapacity (cases where the offender can be held liable) • The offender expresses sincere remorse • No prior criminal history 	<ul style="list-style-type: none"> • Repeated offenses of the different type under the Criminal Act that do not constitute repeated offenses, the criminal history of imprisonment by the same type of offenses or by the crime of violence that does not constitute a repeated offense under the Criminal Act (This applies when the criminal history is within ten years after completion of sentence)



DEFINITION OF OFFENSES

01 | ARREST OR CONFINEMENT

1. GENERAL APPLICABLE PRINCIPLES

- Type 1 includes offense with the following elements of offense and applicable law (This applies to all offenses).

TYPE CLASSIFICATION	ELEMENTS OF THE OFFENSE	APPLICABLE LAW
Type 1. General Arrest or Confinement	Arrest or confinement	Criminal Act, Article 276, paragraph 1
	Arrest or confinement of lineal ascendant	Criminal Act, Article 276, paragraph 2
	Aggravated arrest or confinement	Criminal Act, Article 277, paragraph 1
	Aggravated arrest or confinement of lineal ascendant	Criminal Act, Article 277, paragraph 2
	Arrest or confinement committed by two or more persons, arrestment or confinement of lineal ascendant jointly committed by two or more persons	Punishment of Violence, etc. Act, Article 2, paragraph 2
	Special arrest or confinement, special arrest or confinement of lineal ascendant, special aggravated arrest or confinement, special aggravated arrest or confinement of lineal ascendant	Criminal Act, Article 278
	Habitual arrest or confinement, habitual arrest or confinement of lineal ascendant, habitual aggravated arrest or confinement, habitual aggravated arrest or confinement of lineal ascendant	Criminal Act, Article 279
Type 2. Arrest or Confinement for Retaliation	Arrest or confinement for retaliation	Act on the Aggravated Punishment, etc. of Specific Crimes, Article 5-9, paragraph 2

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TYPE CLASSIFICATION	ELEMENTS OF THE OFFENSE	APPLICABLE LAW
Type 3. Repeated Commission of Arrest or Confinement	Cumulative offenses of arrest or confinement, offenses of cumulative arrest or confinement of lineal ascendant	Punishment of Violence, etc. Act, Article 2, paragraph 3
	Cumulative offenses of special arrest or confinement, cumulative offenses of special arrest or confinement of lineal ascendant	Punishment of Violence, etc. Act, Article 3, paragraph 4

2. TYPE 2 — OFFENSES RESULTING IN BODILY INJURIES

ELEMENTS OF OFFENSE	APPLICABLE LAW
Arrest or confinement resulting in bodily injuries, aggravated arrest or confinement resulting in bodily injuries, special arrest or confinement resulting in bodily injuries, special aggravated arrest or confinement resulting in bodily injuries, habitual arrest or confinement resulting in bodily injuries, or habitual aggravated arrest or confinement resulting in bodily injuries	Criminal Act, Article 281, paragraph 1
Arrest or confinement of lineal ascendant resulting in Bodily Injuries, aggravate arrest or confinement of lineal ascendant resulting in bodily injuries, special arrest or confinement of lineal ascendant resulting in bodily injuries, special aggravated arrest or confinement of lineal ascendant resulting in bodily injuries, habitual arrest or confinement of lineal ascendant resulting in bodily injuries, or habitual aggravated arrest or confinement of lineal ascendant resulting in bodily injuries	Criminal Act, Article 281, paragraph 2

3. TYPE 3 — OFFENSES RESULTING IN DEATH

ELEMENTS OF OFFENSE	APPLICABLE LAW
Arrest or confinement resulting in death, aggravated arrest or confinement resulting in death, special arrest or confinement resulting in death, special aggravated arrest or confinement resulting in death, habitual arrest or confinement resulting in death, habitual aggravated arrest or confinement resulting in death	Criminal Act, Article 281, paragraph 1, latter part of the text
Arrest or confinement of lineal ascendant resulting in death, aggravate arrest or confinement of lineal ascendant resulting in death, special arrest or confinement of lineal ascendant resulting in death, special aggravated arrest or confinement of lineal ascendant resulting in death, habitual arrest or confinement of lineal ascendant resulting in death, habitual aggravated arrest or confinement of lineal ascendant resulting in death	Criminal Act, Article 281, paragraph 2, latter part of the text



ELEMENTS OF OFFENSE	APPLICABLE LAW
Arrest or confinement for retaliation resulting in death	Act on the Aggravated Punishment, etc. of Specific Crimes, Article 5-9, paragraph 3

02¹ ABANDONMENT, MALTREATMENT

1. GENERAL APPLICABLE PRINCIPLES

TYPE	ELEMENTS OF OFFENSE	APPLICABLE LAW
Type 1 General Abandonment or Maltreatment	Abandonment	Criminal Act, Article 271, paragraph 1
	Abandonment of lineal ascendant	Criminal Act, Article 271, paragraph 2
	Abandoning a baby	Criminal Act, Article 272
	Cruelty to another	Criminal Act, Article 273, paragraph 1
	Cruelty to lineal ascendant	Criminal Act, Article 273, paragraph 2
Type 2 Aggravated Abandonment or Maltreatment	Aggravated abandonment	Criminal Act, Article 271, paragraph 3
	Aggravated abandonment of lineal ascendant	Criminal Act, Article 271, paragraph 4
	Abandoning children or child abuse under the Child Welfare Act	Child Welfare Act, Article 71, paragraph 1, subparagraph 2, Article 72
	Desertion of senior citizens or elder abuse under the Welfare of Senior Citizens Act	Welfare of Senior Citizens Act, Article 55-2, Article 55-3, paragraph 1, subparagraph 2
	Abuse toward youth	Youth Protection Act, Article 57

2. TYPE 2 — ABANDONMENT OR MALTREATMENT RESULTING IN BODILY INJURIES

ELEMENTS OF OFFENSE	APPLICABLE LAW
Abandonment or aggravated abandonment resulting in bodily injuries, abandoning baby or abusing baby resulting in bodily injuries	Criminal Act, Article 275, paragraph 1
Abandonment of lineal ascendant or aggravated Abandonment of lineal ascendant resulting in bodily injuries, cruelty to lineal ascendant resulting in bodily injuries	Criminal Act, Article 275, paragraph 2

3. TYPE 3 — ABANDONMENT OR MALTREATMENT RESULTING IN DEATH

ELEMENTS OF OFFENSE	APPLICABLE LAW
Abandonment or aggravated abandonment resulting in death, abandoning baby or abusing baby resulting in death	Criminal Act, Article 275, paragraph 1, latter part of the text
Abandonment of lineal ascendant or aggravated abandonment of lineal ascendant resulting in death, cruelty to lineal ascendant resulting in death	Criminal Act, Article 275, paragraph 2, latter part of the text



03 | AGGRAVATED MALTREATMENT ON CHILDREN RESULTING IN BODILY INJURIES OR DEATH UNDER THE ACT ON SPECIAL CASES CONCERNING THE PUNISHMENT OF ABUSE CRIMES

CLASSIFICATION	ELEMENTS OF OFFENSE	APPLICABLE LAW
Type 1 Aggravated Inflicting Bodily Injury Resulting From Child Abuse	Cases where the offender commits any child abuse crimes falling under the Act on Special Cases Concerning the Punishment, etc. of Child Abuse Crimes, subparagraph 4 (a) through (c) of Article 2 shall be punished by imprisonment with labor for at least three years if it results in danger to a child's life, cripples a child or infects a child with an incurable or chronic disease	Act on Special Cases Concerning the Punishment, etc. of Child Abuse Crimes, Article 5
Type 2 Death Resulting From Child Abuse	Cases where the offender commits any of the child abuse crimes falling under the Act on Special Cases Concerning the Punishment, etc. of Child Abuse Crimes, subparagraph 4 (a) through (c) of Article 2 shall be punished by imprisonment with labor for at least three years. if it results in Death of the Child	Act on Special Cases Concerning the Punishment, etc. of Child Abuse Crimes, Article 4

※ Habitual Offenses of Child Abuse, Child Abuse by the Offender who Has a Duty to Report Child Abuse (This applies to offenses falling under Type 1 to Type 3)

ELEMENTS OF OFFENSE	APPLICABLE LAW
Cases where the offender habitually commits Child Abuse Crimes stipulated in subparagraph 4 (b), (c), (l), (m) of Article 2 of the Act on Special Cases Concerning the Punishment, etc. of Child Abuse Crimes (This shall only apply to offenders stipulated in subparagraph of (b) or (c) subject to aggravated punishment under other statutes)	Act on Special Cases Concerning the Punishment, etc. of Child Abuse Crimes, Article 6
Cases where the offender who has a duty to report child abuse under the subparagraph of Article 10 (2) commits a crime of child abuse against a child under his or her protection stipulated in subparagraph 4 (b), (c), (l), (m) of Article 2 of the Act on Special Cases Concerning the Punishment, etc. of Child Abuse Crimes (This shall only apply to offenders stipulated in subparagraph of (b) or (c) subject to aggravated punishment under other statutes)	Act on Special Cases Concerning the Punishment, etc. of Child Abuse Crimes, Article 7

DEFINITION OF SENTENCING FACTORS

01 | ARREST OR CONFINEMENT

1. CASES WHERE THE EXTENT OF ARREST OR CONFINEMENT IS EXCEPTIONALLY INSIGNIFICANT

- This means one or more of the following factors apply:
 - The period of time of arrest or confinement was exceptionally short
 - The extent of force, fraudulent means, deception, or threat used on the process of arrest or confinement was exceptionally insignificant
 - The victim showed a lack of awareness of arrest or confinement
 - The victim was allowed to do physical activities in the confined site or to contact others the outside while temporarily confined
 - Other cases with comparable factors

2. SPECIAL CONSIDERATION CAN BE TAKEN INTO ACCOUNT FOR ENGAGING IN THE OFFENSE

- “Special considerations can be taken into account for engaging in the offense” means one or more of the following factors apply:
 - Participation in the crime was forced by another person or resulted from threats (This excludes cases where the Criminal Act, Article 12 is applicable)
 - When the offender merely agreed to participate in the crime but did not lead or actually participate in the commission of the crime
 - Other cases with comparable factors

3. CONSIDERATION CAN BE TAKEN INTO ACCOUNT FOR MOTIVES

- This means cases with one or more of the following factors:
 - When the offender committed the crime to be separated from the victim when the relatives or the offender were physically or mentally abused by the victim through domestic violence for a prolonged period
 - When the offender committed the crime as a means of exercising rights
 - Other cases with comparable factors



4. OFFENDER EXPRESSES REMORSE, AND THE VICTIM OPPOSES PUNISHMENT (THIS INCLUDES GENUINE EFFORTS TO REVERSE THE HARM)

- This indicates cases in which the offender expresses sincere remorse and the family member of the deceased victim or the victim acknowledges this and objects to punishing the offender.
- This includes cases where deposits are made in a considerable amount of money comparable to reaching an agreement with the family of the deceased or the victim as a result of the offender's genuine efforts to reverse harm.

5. CONDEMNABLE MOTIVES

- This means cases with one or more of the following factors:
 - Offenses committed out of retaliation, grievance, or hatred
 - Offenses committed by means of committing another crime
 - Offenses committed for the purpose of preventing victim's report of another crime that the offender committed
 - Arrest or confinement for economic gain
 - Other cases with comparable factors

6. CASES WHERE THE EXTENT OF ARREST OR CONFINEMENT IS SERIOUS

- This means one or more of the following factors apply:
 - The victim was arrested or confined for an exceptionally long period
 - The extent of force, fraudulent means, deception, or threat used on the process of arrest or confinement was exceptionally serious
 - Other cases with comparable factors

7. VULNERABLE VICTIMS

- "Vulnerable victims" means cases where the victim was especially vulnerable due to reduced physical or mental capacity or age at the time of the crime and the offender was already aware of or possibly aware of the victim's such circumstances.

8. PREMEDITATED CRIME

- "Premeditated crime" means cases with one or more of the following factors:
 - Advance preparation and possession of the crime weapon

- Planned conspiracy
- Inducement of a victim
- Preparation of destruction of evidence
- Prior planning of a flight plan
- Other cases with comparable factors

9. MINOR BODILY INJURIES

- “Minor bodily injuries” means 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.

10. SERIOUS BODILY INJURIES

- “Serious bodily injuries” means cases with after-effects causing impairment, severe disability resulting from the offense, injuries inflicted to vulnerable body parts, or further anticipated bodily injuries.

11. OFFENDER’S CONDUCT WAS NOT A DIRECT CAUSE OF DEATH

- This indicates cases in which intervening causes other than by the offender resulting in the death of the victim; therefore, the offender cannot be held liable for the direct cause of the death.

02 | ABANDONMENT OR ABUSE OF, AND AGGRAVATED BODILY INJURY ON A CHILD

1. CASES WHERE THE EXTENT OF ABANDONMENT OR ABUSE IS EXCEPTIONALLY INSIGNIFICANT

- This means one or more of the following factors apply:
 - Cases of abandonment: when the extent of violation of a duty to protect the child or the extent of danger to a child’s life or physical safety was exceptionally insignificant, or the child was abandoned in hospital, police substation, protective facilities, etc., or the offender left the site after the child was rescued by other person



- Cases of child abuse: when the extent of violence or threatening language by the offender or the extent of physical pain or mental anguish of the child suffering was exceptionally insignificant
- Other cases with comparable factors

2. CONSIDERATION CAN BE TAKEN INTO ACCOUNT FOR MOTIVES

- This means one or more of the following factors apply:
 - Cases where the offender accidentally committed the crime in the absence of reasonable judgment while supporting or tending the victim
 - When the offender committed the crime to be separated from the victim when the relatives or the offender were physically or mentally abused by the victim through domestic violence for a prolonged period
 - Other cases with comparable factors

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

- This indicates cases in which the offender expresses sincere remorse and the family member of the deceased victim or the victim acknowledges this and objects to punishing the offender.
- This includes cases where the offender fail to reach an agreement with the family of the deceased or the victim, so deposits are made in a considerable amount of money comparable to reaching an agreement with the family of the deceased or the victim as a result of the offender's genuine efforts to reverse the harm.
- This indicates cases in which there the victim is a minor, disabled, or a blood relative of the offender and the like, the objections for punishment can only be possible after thorough and careful examination of the victim or the legal representative's ability to fully understand the meaning, implications, and effect of such objections according to the victim's age, mental capacity, and intelligence, and whether the objection genuinely represents the victim's intention.

4. CONDEMNABLE MOTIVES

- This means cases one or more of the following factors apply:
 - Offenses committed out of retaliation, grievance, or hatred

- Offenses committed with no specific reason toward an indiscriminate (random) number of people or motive derived from the pleasure of committing the crime itself
- Offense committed for economic gain
- Other cases with comparable factors

5. CASES WHERE THE EXTENT OF ABANDONMENT OR ABUSE IS SERIOUS

- This means one or more of the following factors apply:
 - Cases of abandonment: where the victim is abandoned at a place of poor or dangerous conditions or the offender abandons the victim in a secluded area
 - Cases of maltreatment: where the offender tortured, sexually abused, or forced labor on the victim, the extent of the abuse was severe, such as depriving the victim of sleep or food, the offender carried dangerous objects such as deadly weapons, or inflicted considerably severe violence or threat
 - 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

- When determining the sentence, the court shall consider the special and general sentencing determinants that are within the sentencing range assessed according to 1 above comprehensively.

GENERAL APPLICATION PRINCIPLES

01¹ 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 $\frac{1}{2}$.

02¹ RELATION BETWEEN THE RECOMMENDED SENTENCING RANGE UNDER THE GUIDELINES AND THE APPLICABLE 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.

03¹ 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 offenses.

- 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

01 | ARREST OR CONFINEMENT

CLASSIFICATION	ADVERSE	AFFIRMATIVE
Primary Consideration Factor	<ul style="list-style-type: none"> • Cases where the offender committed the offense by showing the power of an organization or multitude or by carrying dangerous articles • The victim is a lineal ascendant • Condemnable motives • The offender cruelly treat a person as prescribed in the Criminal Act, Article 277, paragraph 1 • Cases where the extent of arrest or confinement is serious or the offense resulted in serious bodily injuries or death • The victim is vulnerable to crimes • Commission of the offense prolonged for an extended duration • Cases where the offender, having a duty to report child abuse, committed a crime of child abuse as defined in Article 7 of the Act on Special Cases concerning the Punishment of Child Abuse Crimes • Repeated offenses of the same type under the Criminal Act (This applies when the criminal history is within five years after imposing a suspension of the sentence or three or more criminal history of a sentence to fine) 	<ul style="list-style-type: none"> • Special consideration can be taken into account for engaging in the offense or motives • Cases where the extent of arrest or confinement is exceptionally insignificant or the crime results in minor bodily injuries • Victim released to a safe location voluntarily • Bodily injuries resulted from the base offense of attempt • The offender’s conduct was not the direct cause of death or serious bodily injuries • The victim opposes punishment (including genuine efforts to reverse the harm) • The offender attempted to thwart the accomplice’s commission of the crime • No prior criminal history
General Consideration Factor	<ul style="list-style-type: none"> • Two or more criminal history on the suspension of the sentence or for a greater offense) • Lack of social ties • Drug or alcohol addiction • Absence of sincere remorse 	<ul style="list-style-type: none"> • Lack of social ties • Accidental crime • Voluntary surrender to investigative agencies or internal whistleblowing • Express sincere remorse

Crimes of Illegal Arrest, Confinement, Abandonment, and Abuse

CLASSIFICATION	ADVERSE	AFFIRMATIVE
	<ul style="list-style-type: none"> • Premeditated crime • Cases where the crime was committed with no specific reason toward an indiscriminate (random) number of people • Active participation as an accomplice • Destroying evidence or attempting to conceal evidence after the commission of the offense • No genuine effort to reverse the harm 	<ul style="list-style-type: none"> • A significant amount of money was deposited • No criminal history of the suspension of the sentence or imposing of other sentences more severe • Cases of elderly offenders • Cases of physically ill offenders • Passive participation as an accomplice • Rescuing or transferring the victim to the hospital after committing the offense • Cases where the arrest of the offender would cause severe hardship to the offender's dependant family member




02¹ ABANDONMENT OR MALTREATMENT

CLASSIFICATION	ADVERSE	AFFIRMATIVE
Primary Consideration Factor	<ul style="list-style-type: none"> • Victim is a lineal ascendant • Condemnable motives • Cases where the extent of arrest or confinement is serious or the offense resulted in serious bodily injuries or death • Cases where the offense repeatedly committed for an extended duration • Cases where the offender, having a duty to report child abuse, committed a crime of child abuse as defined in Article 7 of the Act on Special Cases concerning the Punishment of Child Abuse Crimes • Repeated offenses of the same type under the Criminal Act (This applies when the criminal history is within five years after imposing a suspension of the sentence or the offender has three or more criminal history of a sentence to fine) 	<ul style="list-style-type: none"> • Special consideration can be taken into account for engaging in the offense or motives • Cases where the extent of abandonment or maltreatment is exceptionally insignificant or the crime results in minor bodily injuries • Offender's conduct was not the direct cause of death or serious bodily injuries • The victim opposes punishment (including genuine efforts to reverse the harm) • Offender attempted to thwart the accomplice's commission of the crime • No prior criminal history
General Consideration Factor	<ul style="list-style-type: none"> • Two or more criminal history on the suspension of the sentence or for a greater offense • Lack of social ties • Drug or alcohol addiction • Absence of sincere remorse • Premeditated crime • Cases where the crime was committed with no specific reason toward multiple numbers of people • Active participation as an accomplice • Destroying evidence or attempting to conceal evidence after the commission of the offense • No genuine effort to reverse the harm 	<ul style="list-style-type: none"> • Strongly-established social ties • Voluntary surrender to investigative agencies or internal whistleblowing • Express sincere remorse • A significant amount of money was deposited • No criminal history of suspending of sentence or imposing of other sentences more severe • Cases of elderly offenders • Cases of physically ill offenders • Passive participation as an accomplice • Rescuing or transferring the victim to the hospital after committing the offense • Cases where the arrest of the offender would cause severe hardship to the offender's dependant family member

03 | ABANDONMENT OR ABUSE OF, AND AGGRAVATED BODILY INJURY ON CHILDREN

CLASSIFICATION	ADVERSE	AFFIRMATIVE
<p>Primary Consideration Factor</p>	<ul style="list-style-type: none"> • Condemnable motives • Cases where the extent of the abuse was serious • Commission of the offense prolonged for an extended duration • Cases where the offender, having a duty to report child abuse, committed a crime of child abuse as defined in Article 7 of the Act on Special Cases concerning the Punishment of Child Abuse Crimes • Repeated offenses of the same type under the Criminal Act (This applies when the criminal history is within five years after imposing a suspension of the sentence or the offender has three or more criminal history of a sentence to fine) 	<ul style="list-style-type: none"> • Special consideration can be taken into account for engaging in the offense or motives • Offender’s conduct was not the direct cause of death or serious bodily injuries • Victim opposes punishment (including genuine efforts to reverse the harm) • Offender attempted to thwart the accomplice’s commission of the crime • No prior criminal history
<p>General Consideration Factor</p>	<ul style="list-style-type: none"> • Two or more criminal history on the suspension of the sentence or for a greater offense) • Lack of social ties • Drug or alcohol addiction • Absence of sincere remorse • Premeditated crime • Cases where the crime was committed with no specific reason toward multiple numbers of people • Active participation as an accomplice • Destroying evidence or attempting to conceal evidence after the commission of the offense • No genuine effort to reverse the harm • The offense committed on children aged six years or younger 	<ul style="list-style-type: none"> • Strongly-established social ties • Voluntary surrender to investigative agencies or internal whistleblowing • Express sincere remorse • A significant amount of money was deposited • No criminal history of the suspension of the sentence or imposing of other sentences more severe • Cases of elderly offenders • Cases of physically ill offenders • Passive participation as an accomplice • Rescuing or transferring the victim to the hospital after committing the offense • Cases where the arrest of the offender would cause severe hardship to the offender’s dependant family member



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*.
- 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, the prior criminal history is calculated from the final date the sentence was completed until the date the offense was committed.

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

- In deciding whether it is appropriate to suspend a sentence 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 only two or more primary affirmative factors exist or when the primary affirmative factors outnumber the major adverse factor by two or more, suspension of the sentence 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.