

## APPENDIX EE – Types of Sentencing

It is important for in-court clerks to understand the different types of sentences in order to take accurate log notes during sentencing proceedings.

When a defendant is found guilty, the court has three sentencing alternatives:

1. it may suspend imposition of sentence (SIS)
2. it may sentence the defendant and suspend the execution of part of that sentence, or
3. it may sentence the defendant and not suspend execution of any part of it.

### I. Suspended Imposition of Sentence (SIS)

#### A. Definition

A suspended imposition of sentence means the defendant is not given a direct sentence at the time the judgment of conviction is entered. Instead, sentencing is put off for a period of time set by the court. During this period of time, the defendant is on probation and must obey the conditions which the court sets. This period of probation cannot exceed the maximum jail sentence which could be imposed for the crime charged. AS 12.55.085(a). The conditions of probation on an SIS can include serving time in jail, paying a fine, making restitution, doing community work service, and a variety of other requirements.

#### B. Discharge

At the end of the probation period, the defendant is entitled to be discharged if:

1. the court has not revoked the order of probation and pronounced sentence, and
2. no petition to revoke probation is pending.

Being discharged means the defendant will never be sentenced for this crime.

#### C. Set Aside

In addition to discharging the defendant at the end of the probation period, the judge must also decide whether or not to set aside the defendant's conviction. If the conviction is set aside, the conviction will be removed from the defendant's record.

#### D. If Probation Is Revoked

If the defendant fails to comply with the conditions of probation, the probation can be revoked and the defendant can be sentenced up to the maximum penalty allowed. That is, the judge may sentence the defendant to any penalty allowed by the statute.

### II. Suspended Execution of Sentence (SES)

A suspended execution of sentence is sometimes called simply a "suspended sentence." It also may be referred to as an SES in order to distinguish it from the SIS discussed in section I above.

When a judge gives a suspended execution of sentence (SES), the judge imposes a fine or jail sentence or both but then puts off execution (performance) of part or all of the penalty on condition that the defendant obey certain conditions of probation for a given period of time (called "the period of probation"). The period of probation on an SES can be up to five years.

If the defendant obeys the conditions of probation for the probation period, the defendant will never have to pay or serve the suspended penalty. Unlike an SIS, the court does not enter a formal order of discharge at the end of probation and the conviction cannot be set aside.

If the defendant fails to comply with the conditions of probation, the probation can be revoked, and the defendant can be ordered to pay or serve all or any portion of the suspended fine or jail sentence.

### III. Sentence Without Suspension

The court's third alternative is to impose a fine or jail sentence or both and not suspend any portion of it.

If the judge does this, there will be no conditions of probation because there will be no period of probation.