

THE CODE OF CRIMINAL PROCEDURE (EXCERPT)
Act 175 of 1927

***** 769.5.amended THIS AMENDED SECTION IS EFFECTIVE MARCH 24, 2021 *****

769.5.amended Alternative or combined penalties; power of court; rebuttable presumption; reasonable grounds for departure; show cause order; contempt order.

Sec. 5. (1) Subject to subsection (3), if a statute provides that an offense is punishable by imprisonment and a fine, the court may impose imprisonment without the fine or the fine without imprisonment.

(2) Subject to subsection (3), if a statute provides that an offense is punishable by fine or imprisonment, the court may impose both the fine and imprisonment in its discretion.

(3) There is a rebuttable presumption that the court shall sentence an individual convicted of a misdemeanor, other than a serious misdemeanor, with a fine, community service, or other nonjail or nonprobation sentence.

(4) The court may depart from the presumption under subsection (3) if the court finds reasonable grounds for the departure and states on the record the grounds for the departure.

(5) If the court finds that the sentenced person has not complied with his or her sentence, including a nonjail or nonprobation sentence, the court may issue an order for the person to show cause why he or she should not be held in contempt of court for not complying with the sentence. If the court finds the person in contempt, it may impose an additional sentence, including jail or probation if appropriate.

(6) If the finding of contempt of court under subsection (5) is for nonpayment of fines, costs, or other legal financial obligations, the court must find on the record that the person is able to comply with the payments without manifest hardship, and that the person has not made a good-faith effort to do so, before imposing an additional sentence.

(7) As used in this section, "serious misdemeanor" means that term as defined in section 61 of the William Van Regenmorter crime victim's rights act, 1985 PA 87, MCL 780.811.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17333;—CL 1948, 769.5;—Am. 2015, Act 216, Eff. Mar. 14, 2016;—Am. 2020, Act 395, Eff. Mar. 24, 2021.

Former law: See Act 115 of 1839; and Sec. 4 of Ch. 163 of R.S. 1846, being CL 1857, § 6103; CL 1871, § 7987; How., § 9603; CL 1897, § 11973; CL 1915, § 15846.