CHAPTER 2

Crimes of Extortion

- Promulgated on February 4, 2013. Effective on July 1, 2013.
- Amended on July 23, 2018. Effective on August 15, 2018.
- Amended on March 28, 2022. Effective on June 1, 2022.
- Amended on April 24, 2023. Effective on July 1, 2023.
- Amended on March 30, 2026. Effective on July 1, 2026.

This guideline applies to adult offenders (nineteen years of age or older) who committed any offenses of Extortion (Criminal Act, Article 350), Special Extortion (Criminal Act, Article 350-2), Habitual Extortion (Criminal Act, Article 351, Article 350), Habitual Special Extortion (Criminal Act, Article 351, Article 350-2), Extortion by Multiple Persons (Act on the Punishment of Violences, Etc., Article 2, paragraph 2), Repeated Extortion (Act on the Punishment of Violences, Etc., Article 2, paragraph 3), Repeated Special Extortion (Act on the Punishment of Violences, Etc., Article 3, paragraph 4), and Extortion under the Act on the Aggravated Punishment of Specific Economic Crimes (Act on the Aggravated Punishment of Specific Economic Crimes, Article 3, paragraph 1), Crimes of Child Abuse by Persons Who has a Duty to Report Child Abuse(Act on Special Cases Concerning the Punishment, Etc. of Child Abuse Crimes, Article 7, Article 2, subparagraph 4, item 10).

※ Note that the underlined provisions applied to certain crimes were deleted or amended following the statutory revisions made after the sentencing guidelines were established. The sentencing guidelines on those crimes will be revised later. For this reason, all or part of the current standards of sentencing would not be applied.

PART A

TYPES OF OFFENSES AND SENTENCING RANGE

1 GENERAL EXTORTION[1)]

TYPE	CLASSIFICATION	MITIGATED SENTENCING RANGE	STANDARD SENTENCING RANGE	AGGRAVATED SENTENCING RANGE
1	Less than 30 million	– 8 mos.	6 mos. – 1 yr.	10 mos. – 2 yrs. 6 mos.
2	30 Million or more, less than 100 million	4 mos. – 1 yr. 2 mos.	10 mos. – 2 yrs.	1 yr. 6 mos. – 3 yrs.
3	100 Million or more, less than 500 million	10 mos. – 3 yrs.	1 yr. 6 mos. – 4 yrs.	3 yrs. – 7 yrs.
4	500 Million or more, less than 5 billion	1 yr. 6 mos. – 4 yrs. 6 mos.	3 yrs. – 7 yrs.	5 yrs. – 9 yrs.
5	5 Billion or more	3 yrs. – 7 yrs.	5 yrs. – 9 yrs.	7 yrs. – 11 yrs.

(unit: KRW)

CLASSIFICATION		MITIGATING FACTOR	AGGRAVATING FACTOR
Special Sentencing Factor	Conduct	• Extent of the extortion is minor • Cases with special extenuating circumstances mitigating the offender's involvement • Extortion committed to exercise a right	• Playing a leading role or coordinating the crime • Where the offense was committed against an unspecified victim or multiple victims, or was repeatedly committed over a considerable period • Highly egregious conducts or methods • Offense caused significant damage to the victim • Vulnerable victims • Instigating the subordinate to commit the offense

1) Hereinafter, the monetary unit for fines shall be the South Korean Won.

CLASSIFICATION		MITIGATING FACTOR	AGGRAVATING FACTOR
	Offender /Etc.	• Hearing and/or speech disabilities • Diminished mental capacity (without fault) • Voluntary surrender to investigative agencies or internal whistle-blowing • Victim expresses the intent of non-punishment of the offender or substantial restitution to the victim	• Repeated same-offense within the statutory recidivism period • Child abuse committed by a mandatory reporter defined in Article 7 of the Act on Special Cases Concerning the Punishment of Child Abuse Crimes
General Sentencing Factor	Conduct	• Offense committed for basic living expenses or medical expenses • Cases where the offender failed to consume or retain most of the profit from the crime • Minor participation	• Two or more co-offenders • Planned crime • Morally reprehensible motives • Deliberate concealment of profits made from the offense
	Offender /Etc.	• Diminished mental capacity (with fault) • Sincere remorse • No prior criminal convictions • Considerable restitution	• Post-offense evidence tampering or attempting to destroy or conceal evidence • Different-offense recidivism within the statutory recidivism period. Prior convictions for the same-offense, resulting in imprisonment which do not constitute statutory recidivism (less than ten years after the completion of the sentence) • Causing harm in the course of attempted settlement (excluding cases where separate crimes such as coercion are established)

▷ Apply the following classification in cases where a crime of Extortion was committed while severely intoxicated by the use of alcohol or drugs (including cases of Habitual Extortion · Special Extortion · Repeated offense of extortion within recidivism period):

❶ Cases in which 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.

❷ Cases in which the offender had no intent of committing the offense or could not foresee the commission of such offense, but past behavior reveals the possibility of harm caused to others while under the influence of high levels of alcohol or drugs, intoxication shall not be considered as a mitigating factor regardless of whether the offender was in a state of diminished mental capacity at the time of the crime.

❸ Even if the cases do not fall within ❶, ❷, intoxication should not be taken into account as a mitigating factor unless the offender's mental state at the time of the crime constitutes the diminished mental capacity.

2 HABITUAL EXTORTION · SPECIAL EXTORTION · REPEATED EXTORTION WITHIN RECIDIVISM PERIOD

TYPE	CLASSIFICATION	MITIGATED SENTENCING RANGE	STANDARD SENTENCING RANGE	AGGRAVATED SENTENCING RANGE
1	Habitual Extortion · Special Extortion	6 mos. – 2 yrs.	10 mos. – 3 yrs.	2 yrs. – 5 yrs.
2	Repeated Extortion Within Recidivism Period · Habitual Special Extortion	10 mos. – 2 yrs. 6 mos.	1 yr. 4 mos. – 4 yrs.	3 yrs. – 6 yrs.
3	Special Extortion Repeated Within Recidivism Period	1 yr. 6 mos. – 3 yrs.	2 yrs. – 5 yrs.	4 yrs. – 7 yrs.

▷ The recommended sentencing range is based on the sentencing range for each type of offense. However, the upper and lower ends of the recommended sentencing ranges of the offenses in each Section[2] of this Chapter, reflect only the sentencing factors common to the respective Sections, on the basis of the General Extortion Type corresponding to the same criminal gain, and whichever recommended sentencing range is heavier applies.

CLASSIFICATION		MITIGATING FACTOR	AGGRAVATING FACTOR
Special Sentencing Factor	Conduct	• Extent of the extortion is minor • In cases where there are special circumstances that mitigate the offender's involvement in the offense • Extortion committed to exercise right (limited to special extortion)	• Playing a leading role or coordinating the crime • Where the offense was committed against an unspecified victim or multiple victims, or was repeatedly committed over a considerable period • Offense caused significant damage to the victim • Vulnerable victims • Instigating the subordinate to commit the offense
	Offender /Etc.	• Hearing and/or speech disabilities • Diminished mental capacity (without fault) • Voluntary surrender to investigative authorities, internal whistle-blowing • Victim expresses the intent of non-punishment of the offender or substantial restitution to the victim	• Child abuse committed by a mandatory reporter defined in Article 7 of the Act on Special Cases Concerning the Punishment of Child Abuse Crimes

2) Habitual Extortion, Special Extortion, Repeated Extortion Within Recidivism Period

CLASSIFICATION		MITIGATING FACTOR	AGGRAVATING FACTOR
General Sentencing Factor	Conduct	• Offense committed for basic living expenses or medical expenses • Cases where the offender failed to consume or retain most of the profit from the crime • Minor participation	• Planned crime • Morally reprehensible motives • Deliberate concealing of profits made from the offense
	Offender /Etc.	• Diminished mental capacity (with fault) • Sincere remorse • No prior criminal convictions • Considerable restitution	• Post-offense evidence tampering or attempting to destroy or conceal evidence • Different-offense recidivism within the statutory recidivism period. Prior convictions for the same-offense, resulting in imprisonment which do not constitute statutory recidivism (less than ten years after the completion of the sentence) • Causing harm in the course of attempted settlement (excluding cases where separate crimes such as coercion are established)

DEFINITION OF OFFENSES

1 GENERAL EXTORTION

- This refers to an act that constitutes the offense with the following elements as prescribed in the applicable law (hereinafter the same).

ELEMENTS OF OFFENSE	APPLICABLE LAW
Extortion	Criminal Act, Article 350
Extortion by Multiple Offenders	Act on the Punishment of Violences, Etc., Article 2, paragraph 2, subparagraph 3
Specific Economic Extortion Under Act on the Aggravated Punishment of Specific Economic Crimes	Act on the Aggravated Punishment of Specific Economic Crimes, Article 3, paragraph 1

1. TYPE 1

- Type 1 offense refers to cases where the criminal gain is less than 30 million KRW. “criminal gain” means the value of property or financial gain that the offender obtained through the commission of the offense, or that a third party obtained through the assistance of the offender (hereinafter the same).

2. TYPE 2

- This indicates cases in which the criminal gain by extortion is 30 million KRW or more but is less than 100 million KRW.

3. TYPE 3

- This indicates cases in which the criminal gain by extortion is 100 million KRW or more but is less than 500 million KRW.

4. TYPE 4

- This indicates cases in which the criminal gain by extortion is 500 million KRW or more but is less than 5 billion KRW.

5. TYPE 5

- This indicates cases in which the criminal gain by extortion is 5 billion KRW or more.

2 HABITUAL EXTORTION · SPECIAL EXTORTION · REPEATED EXTORTION WITHIN RECIDIVISM PERIOD

TYPE	ELEMENTS OF OFFENSE	APPLICABLE LAW
Type 1 Habitual Extortion · Special Extortion	Habitual Extortion	Criminal Act, Article 351, Article 350
	Special Extortion	Criminal Act, Article 350-2
Type 2 Repeated Extortion Within Recidivism Period · Habitual Special Extortion	Repeated Extortion Within Recidivism Period	Act on the Punishment of Violences, Etc., Article 2, paragraph 3, subparagraph 3
	Habitual Special Extortion	Criminal Act, Article 351, Article 350-2
Type 3 Repeated Special Extortion Within Recidivism Period	Repeated Special Extortion Within Recidivism Period	Act on the Punishment of Violences, Etc., Article 3, paragraph 4, subparagraph 3

※ Crimes of Child Abuse committed by a Person Who Has A Mandatory Duty to Report Child Abuse (Applicable to both Type 1 and Type 2 offenses)

ELEMENTS OF OFFENSE	APPLICABLE LAW
When a person who has a mandatory duty to report child abuse under each subparagraph of Article 10, Paragraph 2 of the Act on Special Cases Concerning the Punishment, Etc. of Child Abuse Crimes commits child abuse crimes as defined in item 10 and item 13 (limited to cases where item 10 offenses are subject to aggravated punishment under other laws) of Article 2, subparagraph 4 of the same Act against a child under their protection	Act on Special Cases Concerning The Punishment, Etc. of Child Abuse Crimes, Article 7

DEFINITION OF SENTENCING FACTORS

1. THE EXTENT OF EXTORTION IS MINOR

- This applies where one or more of the following are present:
  - The extent of violence or intimidation is minor
  - The extent of harm is minor (This excludes cases where the offender pretended to be a gangster or commits an offense against a vulnerable victim)
  - Cases where the victim was not seriously intimidated by the offender's violence or intimidation
  - Other cases with comparable factors

2. CASES WITH SPECIAL EXTENUATING CIRCUMSTANCES THAT MITIGATE THE OFFENDER'S INVOLVEMENT

- This applies where one or more of the following are present:
  - The offender participated in the crime under coercion or threats by another person (excluding cases that fall under Article 12 of the Criminal Act).
  - The offender merely agreed to participate in the crime and neither directed nor directly took part in carrying out the offense.
  - Other cases with comparable mitigating factors.

3. EXTORTION COMMITTED TO EXERCISE RIGHT

- This applies where one or more of the following are present:
  - The offender used violence or intimidation to collect the debt Etc. (This excludes cases where the offender used violence or intimidation through a professional debt-collecting agency, cases in which the offender made a specific threat concerning the victim's family and their safety, or the offender committed violence at the victim's house or workplace.)
  - Cases in which the means and methods to exercise a right are not permissible under the social norm
  - Other cases with comparable factors

4. HIGHLY EGREGIOUS CONDUCTS OR METHODS

- This applies where one or more of the following are present:
  - Cases where the offender posed as a member of an organized criminal group, or offense was committed by using the offender's malicious background or experience or pretending that the offender has such background or experience
  - Cases where the offender made specific threats concerning the victim's family and their safety
  - Cases where the offender committed violence at the victim's house or workplace
  - The offender committed a crime by using the status of the public official or association with an organization such as media with social influence
  - Other cases with comparable factors

5. INFLICTING SERIOUS HARM TO THE VICTIM

- This applies where one or more of the following are present and the defendant foresaw, or ought to have foreseen:
  - Victim become insolvent due to a liquidity crisis, or a serious managerial crisis is caused to the victim as a result of the offense
  - Collapse of company's stock price due to damaged reputation as a result of the offense
  - Multiple bankruptcies were induced as a result of the offense
  - Victim loses nearly all assets due to the offense
  - Other cases with comparable factors

6. VULNERABLE VICTIMS

- Vulnerable victims means cases where the victim was especially vulnerable due to diminishing 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.

7. VICTIM EXPRESSES THE INTENT OF NON-PUNISHMENT

- This indicates cases in which the offender shows sincere remorse with genuine efforts to reach a settlement with the victim; the victim or the family of victim (in

the case of a deceased victim) fully understands the legal and social implications of opposing punishment and clearly expresses the intent not to seek punishing the offender. However, this should not apply in the following cases:

- (1) in cases in which the victim or the family of the deceased opposes punishment as a result of *de facto* coercion or deceit by the offender against the victim's will, or
- (2) where there is no reasonable or convincing basis for the victim or their legal representative to express no desire for punishment.

- This applies only to cases in which, upon careful and thorough examination and assessment of the victim's or legal representative's age, intelligence, and ability to fully understand the meaning, content, and legal implications of expressing an intent not to seek punishment, it is determined that such expression is both informed and genuine.

8. SUBSTANTIAL RESTITUTION TO THE VICTIM

- This refers to cases in which the offender, through genuine and sustained efforts, has restored the damages to a degree comparable to a formal settlement (in cases where only property damage occurred, approximately 2/3 or more of the total loss), or in which restitution of such degree is reasonably assured.
- In the case of a court deposit, it constitutes substantial recovery of damages only when such a determination is made after carefully examining and assessing the opinions of the victim of the underlying offense or their legal representative (including the spouse, lineal relatives, and siblings if the victim is deceased) regarding the deposit, whether the defendant is legally permitted or intends to retrieve the deposited funds, the nature of the infringed legal interests, and the scale and extent of the damage.

9. MINOR PARTICIPATION

- This indicates cases in which the nature of participation in the commission of the offense was minor or the offender had a limited role.
- However, this is not applicable in cases in which the offender had a leading role in the commission of the offense by causing another person to commit the offense.

10. SINCERE REMORSE

- This indicates cases in which, after examining and assessing the specific circumstances surrounding the offender's admission of the offense and any voluntary efforts made toward victim restitution and/or the prevention of re-offending, the offender is deemed to show genuine remorse for the offense.

11. NO PRIOR CRIMINAL CONVICTIONS

- This indicates cases in which, the defendant has never committed a crime even once prior to the relevant offense. However, this excludes cases targeting unspecified victims or multiple victims, or cases where crimes were committed repeatedly over a prolonged period.

12. PLANNED CRIME

- This applies where one or more of the following are present:
  - Advance preparation and possession of a weapon used in the offense
  - Planned conspiracy
  - Inducement of the victim
  - Preparation for the destruction of evidence
  - Prior planning of a flight plan
  - Other cases with comparable factors

13. MORALLY REPREHENSIBLE MOTIVES

- This indicates cases in which the nature of the motives for extortion was reprehensible, and has one or more of the following factors:
  - Offense committed for illegal use such as gambling
  - The offense was committed for the purpose of raising funds to commit other offense
  - Extortion of property committed to retaliate or harass the victim
  - Extortion of the opponent's property to maintain dominance in power among gangster groups
  - Other cases with comparable factors

14. DELIBERATE CONCEALMENT OF PROFITS GAINED FROM THE OFFENSE

- This means profits gained from the offense were deliberately concealed by the offender, thereby causing delayed damage recovery or absence of recovery.

15. CAUSING HARM IN THE COURSE OF ATTEMPTED SETTLEMENT (EXCLUDING CASES WHERE SEPARATE CRIMES SUCH AS COERCION ARE ESTABLISHED)

- This indicates cases in which harm is inflicted by persistently harassing the victim, by applying undue pressure by suggesting tangible or intangible disadvantages for refusing the settlement, or by using other equivalent methods, in the course of attempting settlement.

PRINCIPLES APPLICABLE TO SENTENCING FACTORS

1 DETERMINING THE SENTENCING RANGE

- When determining the appropriate sentencing range, judges must consider only the Special Sentencing Factors.
- However, where multiple Special Sentencing Factors are present, the applicable sentencing range shall be determined after assessing the factors in accordance with the following principles:
  - ❶ Greater weight is accorded to Conduct Factors than to Offender/Etc. Factors of equal number. However, where a victim has intent of non-punishment, such wishes may be treated on a par with a Conduct Factor.
  - ❷ Conduct Factors *inter se*, and Offender/Etc. Factors *inter se*, shall be treated as equivalent.
  - ❸ If the sentencing range applicable cannot be determined by the aforementioned principles in ❶ and ❷, judges are to decide the sentencing range by a comprehensive comparison and assessment of Special Sentencing Factors based on the principles set forth in ❶ and ❷.
- After the assessment of sentencing factors, where aggravating factors outweigh mitigating factors, the aggravating sentencing range is recommended; where mitigating factors outweigh aggravating factors, the mitigating sentencing range is recommended; and in all other cases, the standard sentencing range is recommended.

2 DETERMINING THE SENTENCE TO BE IMPOSED

- The sentence to be imposed shall be determined within the sentencing range established under paragraph 1 above, by comprehensively taking into account both General Sentencing Factors and Special Sentencing Factors.

GENERAL APPLICATION PRINCIPLES

1 SPECIAL ADJUSTMENTS TO THE RECOMMENDED SENTENCING RANGE

❶ After the assessment of Special Sentencing Factors, if a case falls within the Aggravating Sentencing Range and either i) two or more Special Aggravating Factors exist alone, or ii) Special Aggravating Factors outnumber Special Mitigating Factors by two or more, the upper limit of the recommended sentencing range may be increased by up to 1/2.

❷ After the assessment of Special Sentencing Factors, if a case falls within the Mitigating Sentencing Range and either i) two or more Special Mitigating Factors exist alone, or ii) Special Mitigating Factors outnumber Special Aggravating Factors by two or more, the lower limit of the recommended sentencing range may be reduced by up to 1/2.

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

- Where the sentencing range recommended under this guideline conflicts with the statutory applicable aggravated/mitigated sentencing range, the upper or lower limit of the applicable sentencing range by law shall govern.

3 APPLICATION OF DISCRETIONARY MITIGATING FACTORS BY LAW

- Where a judge declines to apply discretionary statutory mitigating factors listed in the Sentencing Factor Table of this guideline, such factors shall be considered as extenuating circumstances among mitigating factors.

GUIDELINES ON SENTENCING MULTIPLE OFFENSES

1 APPLICABLE RANGE

- 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 include both an offense set forth in the sentencing guidelines and an offense not covered by the sentencing guidelines, then the minimum level should be the minimum of the sentencing range of the offense that is set forth in this sentencing guideline.

2 DETERMINING THE BASE OFFENSE

- The "base offense" refers to the offense subject to the most severe punishment after selecting the type of punishment and applying any statutory aggravation and/or mitigation thereto. However, where the upper end of the sentencing range under the sentencing guidelines for an offense covered by this chapter is lower than the upper end of the sentencing range under the sentencing guidelines for the other concurrent offense, the other concurrent offense shall become the base offense.

3 DETERMINING THE SENTENCING RANGE FOR THE CONCURRENT MULTIPLE SAME-OFFENSES

- For concurrent same-offense among General Extortion, the following method of aggravation for multiple offenses shall apply.
  - ❶ The Type of offense shall be determined based on the aggregate amount of criminal gain. Within that Type, the sentencing range shall be selected by the judges taking into account all relevant circumstances.
  - ❷ (1) Where the aggregation of criminal gain results in an offense Type one level higher than that of the most severe single offense among offenses of the

same Type, the lower end of the sentencing range shall be reduced by 1/3. (2) Where the aggregation of criminal gain results in an offense Type two levels or more higher than that of the most severe single offense, the lower end of the sentencing range shall be reduced by 1/2. However, the reduced lower end of the sentencing range shall not fall below the lower end of the sentencing range of the offense Type applicable to the most severe single offense.

4 DETERMINING THE SENTENCING RANGE FOR THE CONCURRENT MULTIPLE DIFFERENT-OFFENSES

- Except for concurrent different-offense that are treated as a single offense under the sentencing guidelines, the following method of aggravation for multiple offenses shall apply.
  - ❶ The sentencing range for multiple offenses involving two offenses shall be determined by adding 1/2 of the upper end of the sentencing range of the other offense to the upper end of the sentencing range of the base offense.
  - ❷ For multiple offenses involving three or more offenses, the upper end of the sentencing range shall be determined by adding the following three figures: (1) the upper end of the sentencing range of the base offense, (2) 1/2 of the upper end of the sentencing range of the offense with the highest upper end of the sentencing range among the other offenses, and (3) 1/3 of the upper end of the sentencing range of the offense with the second highest upper end of the sentencing range among the other offenses.
  - ❸ For multiple offenses where the lower end of the sentencing range of the other offense is higher than the lower end of the sentencing range of the base offense, the lower end of the sentencing range after applying the method of aggravation for multiple offenses shall be the lower end of the sentencing range of the other offense.
- However, where the multiple offenses include concurrent offenses of the General Extortion, the sentencing range shall first be determined by applying the method for concurrent same-offenses involving General Extortion, and the method of aggravation for multiple different-offenses set out above shall then be applied to that sentencing range.

PART B

GUIDELINE ON SUSPENDING A SENTENCE

CLASSIFICATION	ADVERSE	AFFIRMATIVE
Primary Circumstances	• Where the offense was committed against an unspecified number of persons or multiple victims, or was repeatedly committed over a considerable period • Highly egregious conducts or methods • Prior convictions for the same-offense [suspended sentence of imprisonment without labor or a more severe punishment imposed within the past five years, or three or more fines (including suspended fine)] • Vulnerable victims • No agreement was reached with the victim • Offense resulted in serious harm to the victim • Child abuse committed by a mandatory reporter defined in Article 7 of the Act on Special Cases Concerning the Punishment of Child Abuse Crimes	• Extent of extortion is minor • Cases with special extenuating circumstances mitigating the offender's involvement • Voluntary surrender to investigative authorities or whistle-blowing of internal corruption • Offender prevented or blocked the commission of the crime by the accomplice • No prior criminal convictions • Victim expresses the intent of non-punishment of the offender or substantial restitution to the victim
General Circumstances	• Prior convictions for the same-offense, or two or more prior convictions resulting in a suspended sentence of imprisonment without labor or heavier punishment • Morally reprehensible motives • Lack of social/family ties • Drug or alcohol addiction • Absence of sincere remorse • Planned crime • Leading role as a co-offender • Deliberate concealment of profits gained from the offense • Post-offense evidence tampering or attempting to destroy or conceal evidence • Absence of efforts to reverse the harm • Causing harm in the course of attempted settlement (excluding cases where separate crimes such as coercion are established)	• Offense committed for basic living expenses or medical treatment expenses • Stable social/family ties • Sincere remorse • No prior convictions resulting in a suspended sentence of imprisonment without labor, or heavier punishment • Extenuating motives for the offense • The offender's physical condition is severely impaired • Cases where the offender failed to consume or retain most of the profit from the crime • Minor participation as a co-offender • Cases where detaining the offender would impose excessive hardship on dependent family members • Considerable restitution

DEFINITIONS OF CIRCUMSTANCES TO CONSIDER WHEN SUSPENDING A SENTENCE

- For identical factors in both Sentencing Factors and the Circumstances for Suspending a Sentence, refer to the definitions set forth in the Definition of Sentencing Factors.
- Calculation of the Period of Prior Criminal Convictions
  - For cases where a suspended sentence of imprisonment or a fine was imposed, the period of a prior conviction is calculated from the date on which the judgment became final to the date of the commission of the offense.
  - For cases where a sentence of imprisonment was executed, the period of a prior conviction is calculated from the date on which the sentence was fully served to the date of the commission of the offense.

PRINCIPLES APPLICABLE TO CIRCUMSTANCES WHEN SUSPENDING A SENTENCE

- When the recommended sentence is imprisonment with labor and judges decide to suspend execution of the sentence, they must give greater weight to the Primary Circumstances than to the General Circumstances, and the following principles should be considered:
  ❶ When two or more Primary Affirmative Circumstances exist alone, or when Primary Affirmative Circumstances outnumber Primary Adverse Circumstances by two or more, it is recommended to suspend the sentence.
  ❷ When two or more Primary Adverse Circumstances exist alone, or when Primary Adverse Circumstances outnumber Primary Affirmative Circumstances by two or more, imprisonment is recommended.
  ❸ In cases in which ❶ or ❷ apply, but the difference between the number of General Adverse (Affirmative) Circumstances and General Affirmative (Adverse) Circumstances is greater than the difference between the number of Primary Affirmative (Adverse) Circumstances and Primary Adverse (Affirmative) Circumstances, or in cases other than ❶ or ❷, the judges shall decide whether to suspend the sentence after comparing and assessing all the Circumstances comprehensively.