CHAPTER 27

Crimes of Commercial Sexual Acts

- Promulgated on March 31, 2014. Effective on July 1, 2014.
- Amended on December 6, 2021. Effective on March 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 offenders (nineteen years of age or older) who committed any offenses falling under the Act on the Punishment of Arrangement of Commercial Sex Acts, Article 18, paragraph 1, subparagraph 1 through 3, Article 19, paragraph 1, 2, and the Act on the Protection of Children and Youth Against Sex Offenses, Article 13, paragraph 1, and Article 14, paragraph 1 through 3, or Article 15, paragraph 1, subparagraph 1 through 4, paragraph 2, paragraph 3.

PART A

TYPES OF OFFENSES AND SENTENCING RANGE

1 ENGAGE IN COMMERCIAL SEX ACTS WITH PERSONS OVER 19

1. COERCING TO ENGAGE IN THE CONDUCT OF SELLING SEX

TYPE	CLASSIFICATION	MITIGATED SENTENCING RANGE	STANDARD SENTENCING RANGE	AGGRAVATED SENTENCING RANGE
1	Coercing to Engage in the Conduct of Selling Sex	4 mos. ~ 1 yr.	8 mos. ~ 2 yrs.	1 yr. 6 mos. ~ 3 yrs.
2	Coercing to Engage in the Conduct of Selling Sex in Return for Taking Money, etc.	6 mos. ~ 1 yr. 6 mos.	10 mos. ~ 2 yrs. 6 mos.	2 yrs. ~ 5 yrs.

CLASSIFICATION		MITIGATING FACTOR	AGGRAVATING FACTOR
Special Sentencing Factor	Conduct	• Cases in which the use of force was extremely slight or the degree of deception was minimal • Cases with special extenuating circumstances that mitigate the offender's involvement	• Sadistic, perverse conduct or with an extreme level of sexual humiliation • Cases where the offense resulted in significant physical or mental damage to the victim • Instigating the subordinate to commit the offense
	Offender/ Etc.	• Hearing and/or speech disabilities • Diminished mental capacity (without fault) • Voluntary surrender to investigative authorities or internal whistle-blowing • Victim expresses the intent of non-punishment	• Same-offense recidivism within the statutory recidivism period (including sexual crimes)
General Sentencing Factor	Conduct	• Minor participation • Cases where the offense ended only with a demand or a promise, or the actual gain is exceptionally insignificant (in case of receiving benefits of Type 2 offenses)	• Morally reprehensible motives • Cases in which the amount of money or other valuables received is substantial (in cases of receiving rewards of Type 2 offenses)

CLASSIFICATION		MITIGATING FACTOR	AGGRAVATING FACTOR
	Offender/ Etc.	• Sincere remorse • No prior criminal convictions • Considerable restitution	• Abuse of position of trust • Different-offense recidivism within the statutory recidivism period. Prior convictions for the same-offense or a crime of violence resulting in imprisonment that do not constitute statutory recidivism (within ten years after the completion of the sentence, including sex crimes) • 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 the offense of commercial sexual acts was committed while severely intoxicated by alcohol or drugs (including cases of crimes of commercial sexual acts against a person under the age of 19);

❶ Cases in which the offender voluntarily became intoxicated by alcohol or drugs with the intent to commit a crime, in anticipation of committing a crime, or to use as grounds for exemption after committing a crime, the state of intoxication shall be reflected as a general aggravating factor regardless of whether the defendant was in a state of diminished mental capacity at the time of the offense.

❷ Cases in which offender had no criminal intent and no anticipation of committing a crime, but past experiences, physical condition, or circumstances indicated a propensity to cause harm to others when intoxicated, the state of intoxication shall not be reflected as a mitigating factor regardless of the defendant's mental capacity at the time of the offense.

❸ Even in cases not falling under ❶ or ❷, if the offender did not suffer from diminished mental capacity at the time of the offense, the intoxication shall not be reflected as a mitigating factor.

2. ARRANGING COMMERCIAL SEX ACTS, ETC

TYPE	CLASSIFICATION	MITIGATED SENTENCING RANGE	STANDARD SENTENCING RANGE	AGGRAVATED SENTENCING RANGE
1	Arranging Commercial Sex Acts etc.	- 6 mos.	4 mos. - 10 mos.	8 mos. - 1 yr. 6 mos.
2	Arranging Commercial Sex Acts as a Business · for Receiving Money or Other Valuables	- 8 mos.	6 mos. - 1 yr. 4 mos.	1 yr. - 3 yrs.

CLASSIFICATION		MITIGATING FACTOR	AGGRAVATING FACTOR
Special Sentencing Factor	Conduct	• Cases with special extenuating circumstances that mitigate the offender's involvement • Passive acquiescence to the active demand	• Sadistic, perverse conduct or with an extreme level of sexual humiliation • Organized commission of the crime over a prolonged period of time • Cases where abusing the physical or mental disability of the person who sells sex • Arranging commercial sex acts by using advertisement or other media with high-dissemination • Instigating the subordinate person to commit the offense
	Offender/ Etc.	• Hearing and/or speech disabilities • Diminished mental capacity (without fault) • Voluntary surrender to investigative authorities or internal whistle-blowing	• Same-offense recidivism within the statutory recidivism period (including sexual crimes)
General Sentencing Factor	Conduct	• Minor participation • Cases where the offender engaged in commercial sex acts for a short period or actual gain is exceptionally insignificant (Type 2)	• Morally reprehensible motives • Cases where the amount of profits is substantial (Type 2)
	Offender/ Etc.	• Sincere remorse • No prior criminal convictions	• Abuse of relationship of trust • Attempt to conceal the offense (Type 2) • Different-offense recidivism within the statutory recidivism period. Prior convictions for the same-offense or a crime of violence resulting in imprisonment that do not constitute statutory recidivism (within ten years after the completion of the sentence, including sex crimes)

2 ENGAGE IN COMMERCIAL SEX ACTS INVOLVING MINORS UNDER 19

1. ENGAGING IN COMMERCIAL SEX ACTS WITH A CHILD · A MINOR

CLASSIFICATION	MITIGATED SENTENCING RANGE	STANDARD SENTENCING RANGE	AGGRAVATED SENTENCING RANGE
Purchasing Commercial Sex Acts Involving A Child · A Minor	6 mos. – 1 yr. 6 mos.	10 mos. – 2 yrs. 6 mos.	2 yrs. – 5 yrs.

CLASSIFICATION		MITIGATING FACTOR	AGGRAVATING FACTOR
Special Sentencing Factor	Conduct	• Cases with special extenuating circumstances that mitigate the offender's involvement	• Sadistic, perverse conduct, or extreme level of sexual humiliation • Cases where the offense caused significant physical or mental harm against children or a minor involved • Offender abused physical or mental disability of children or minors who sell sex • Instigating the subordinate person to commit the offense
	Offender/ Etc.	• Hearing and/or speech disabilities • Diminished mental capacity (without fault) • Voluntary surrender to investigative authorities or internal whistle-blowing	• Same-offense recidivism within the statutory recidivism period (including sexual crimes, a suspended sentence of imprisonment or a heavier punishment within the past three years)
General Sentencing Factor	Conduct	• Minor participation • Actively enticing to engage in commercial sex acts	• Fraudulently obtain money or other valuables received by a child or minor
	Offender/ Etc.	• Sincere remorse • No prior criminal convictions	• Abuse the position of trust • Prior conviction for the same-offense (including sex crimes, during a period exceeding three years but within ten years, a suspended sentence of imprisonment or a heavier punishment), or different-offense recidivism within the statutory recidivism period

2. COERCING A CHILD · A MINOR TO ENGAGE IN COMMERCIAL SEX ACTS. ETC.

TYPE	CLASSIFICATION	MITIGATED SENTENCING RANGE	STANDARD SENTENCING RANGE	AGGRAVATED SENTENCING RANGE
1	Coercing a Child or a Minor to Engage in Commercial Sex Acts, etc	2 yrs. 6 mos. – 5 yrs.	3 yrs. 6 mos. – 7 yrs.	5 yrs. – 8 yrs.
2	Coercing a Child or Minor to Engage in Commercial Sex Acts in Exchange For Money or Other Valuables	3 yrs. 6 mos. – 6 yrs.	4 yrs. 6 mos. – 8 yrs.	6 yrs. – 10 yrs.

CLASSIFICATION		MITIGATING FACTOR	AGGRAVATING FACTOR
Special Sentencing Factor	Conduct	• In cases where there are special extenuating circumstances that mitigate the offender's involvement in the offense	• Sadistic, perverse conduct or extreme level of sexual humiliation • Cases where the offense caused significant physical or psychological harm to a child or a minor involved • Offender abused physical or mental disability of children or minors who sell sex • Instigating the subordinate person to commit the offense
	Offender/ Etc.	• Hearing and/or speech disabilities • Diminished mental capacity (without fault) • Voluntary surrender to investigative authorities or internal whistle-blowing	• Same-offense recidivism within the statutory recidivism period (including sex crimes)
General Sentencing Factor	Conduct	• Minor participation • Cases where the offense ended only with demand or a promise or the actual gain is exceptionally insignificant (in case of receiving rewards of Type 2 offenses)	• Morally reprehensible motives • Cases where the amount of money or valuables received is considerable (in cases of receiving rewards of Type 2 offenses)
	Offender/ Etc.	• Sincere remorse • No prior criminal convictions • Victim expresses the intent of non-punishment or substantial restitution was made to the victim	• Abuse of position of trust • Different-offense recidivism within the statutory recidivism period. Prior convictions for the same-offense or a crime of violence resulting in imprisonment that do not constitute statutory recidivism (within ten years after the completion of the sentence, including sex crimes) • Causing harm in the course of attempted settlement (excluding cases where separate crimes such as coercion are established)

3. ARRANGING A CHILD · A MINOR TO ENGAGE IN COMMERCIAL SEX ACTS

TYPE	CLASSIFICATION	MITIGATED SENTENCING RANGE	STANDARD SENTENCING RANGE	AGGRAVATED SENTENCING RANGE
1	Enticing · Recommending A Child or A Minor to Engage in Commercial Sex Acts / Soliciting for · Enticing · Coercing to Engage in Commercial Sex Acts as Business/ Providing a Place for or Arranging Commercial Sex Acts, or Providing Information on Arrangement of Commercial Sex Acts through an Information and Communication Network	– 10 mos.	8 mos. – 1 yr. 6 mos.	1 yr. – 3 yrs.
2	Soliciting for · Enticing to Engage in Commercial Sex Acts as Business	2 yrs. 6 mos. – 5 yrs.	3 yrs. 6 mos. – 7 yrs.	5 yrs. – 8 yrs.
3.	Providing a place for, or arranging, the purchase of sex as a business, or providing information on such arrangement via an information and communications network, etc.	3 yrs. 6 mos. – 6 yrs.	4 yrs. 6 mos. – 8 yrs.	6 yrs. – 10 yrs.

▷ Enticing, recommending, or coercing a child or a minor to engage in commercial sex acts falls within Type 1. However, the maximum and the minimum sentencing range shall be reduced up to 2/3.

CLASSIFICATION		MITIGATING FACTOR	AGGRAVATING FACTOR
Special Sentencing Factor	Conduct	• Cases with special extenuating circumstances that mitigating the offender's involvement	• Sadistic, perverse conduct or extreme level of sexual humiliation • Organized commission of the crime over an extended period • Offender abused physical or mental disability of children or minors who sell sex • Arranging commercial sex acts by using advertisement or other media with high-dissemination • Instigating the subordinate to commit the offense

CLASSIFICATION		MITIGATING FACTOR	AGGRAVATING FACTOR
	Offender/ Etc.	• Hearing and/or speech disabilities • Diminished mental capacity (without fault) • Voluntary surrender to investigative authorities or internal whistle-blowing	• Same-offense recidivism within the statutory recidivism period (including sex crimes)
General Sentencing Factor	Conduct	• Minor participation • Operate the business for a short period or actual gain is exceptionally insignificant (in case of engaging in commercial sex acts as a profession or business)	• Morally reprehensible motives • Cases where the amount of profits is considerable (in case of engaging in commercial sex acts as a business or for livelihood)
	Offender/ Etc.	• Sincere remorse • No prior criminal convictions	• Abuse of position of trust • Attempt to conceal the offense (in case of engaging in commercial sex acts as a business or for livelihood) • Different-offense recidivism within the statutory recidivism period. Prior convictions for the same-offense or a crime of violence resulting in imprisonment that do not constitute statutory recidivism (within ten years after the completion of the sentence, including sex crimes)

DEFINITION OF OFFENSES

1 ENGAGE IN COMMERCIAL SEX ACTS WITH PERSONS OVER 19

1. COERCING TO ENGAGE IN COMMERCIAL SEX ACTS, ETC

(1) TYPE 1

- 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
Having another person engage in the conduct of selling sex by force · by threatening	Act on the Punishment of Arrangement of Commercial Sex Acts, Article 18, paragraph 1, subparagraph 1
Having a person who sells sex to engage in such acts by putting the person in harm by a deceptive scheme or by other means	Act on the Punishment of Arrangement of Commercial Sex Acts, Article 18, paragraph 1, subparagraph 2
Having another person engage in selling sex by taking advantage of their status to protect · guard the victim	Act on the Punishment of Arrangement of Commercial Sex Acts, Article 18, paragraph 1, subparagraph 3

(2) TYPE 2

ELEMENTS OF OFFENSE	APPLICABLE LAW
An offender who committed an offense referred to in Article 18, paragraph 1 (including those who have attempted to commit an offense) and has received, demanded or promised a reward wholly or partially thereof	Act on the Punishment of Arrangement of Commercial Sex Acts, Article 18, paragraph 2, subparagraph 1
Have a juvenile, a person having no or weak ability to make discernment or decisions, or a person with serious disabilities engage in the conduct of selling sex by a deceptive scheme or by force	Act on the Punishment of Arrangement of Commercial Sex Acts, Article 18, paragraph 2, subparagraph 2
Committing an offense referred to in paragraph 1 as a member of an organization or a gang referred to in Article 18 of the Punishment of Violence Act	Act on the Punishment of Arrangement of Commercial Sex Acts, Article 18, paragraph 2, subparagraph 3

2. ARRANGING COMMERCIAL SEX ACTS, ETC

(1) TYPE 1

ELEMENTS OF OFFENSE	APPLICABLE LAW
Engage in the conduct of arranging commercial sex acts and others	Act on the Punishment of Arrangement of Commercial Sex Acts, Article 19, paragraph 1, subparagraph 1
Recruit a minor who would engage in commercial sex acts and take money in exchange for arranging the act	Act on the Punishment of Arrangement of Commercial Sex Acts, Article 19, paragraph 1, subparagraph 2
Taking money in exchange for arranging commercial sex acts by acting as a broker	Act on the Punishment of Arrangement of Commercial Sex Acts, Article 19, paragraph 1, subparagraph 3

(2) TYPE 2

ELEMENTS OF OFFENSE	APPLICABLE LAW
Engage in the conduct of arranging commercial sex acts, etc. as a business	Act on the Punishment of Arrangement of Commercial Sex Acts, Article 19, paragraph 2, subparagraph 1
Taking money or other valuables in return for arranging a child or a minor to engage in commercial sex acts	Act on the Punishment of Arrangement of Commercial Sex Acts, Article 19, paragraph 2, subparagraph 2
Receive a reward in return for brokering or arranging jobs for other persons to sell sex	Act on the Punishment of Arrangement of Commercial Sex Acts, Article 19, paragraph 2, subparagraph 3

2 ENGAGE IN COMMERCIAL SEX ACTS INVOLVING MINORS UNDER 19

1. ENGAGING IN COMMERCIAL SEX ACTS WITH A CHILD · A MINOR

ELEMENTS OF OFFENSE	APPLICABLE LAW
Engaging in commercial sex acts with a child or a minor	Act on the Protection of Children and Youth Against Sex Offenses, Article 13, paragraph 1

2. COERCING A CHILD · A MINOR TO ENGAGE IN COMMERCIAL SEX ACTS, ETC.

(1) TYPE 1

ELEMENTS OF OFFENSE	APPLICABLE LAW
Coerce a child or a minor to engage in commercial sex acts by threat or assault	Act on the Protection of Children and Youth Against Sex Offenses, Article 14, paragraph 1, subparagraph 1
Coerce a child or a minor to engage in commercial sex acts by threat or assault by placing them into a troubling situation, or by means of advance payment or debt by a deceptive scheme or force	Act on the Protection of Children and Youth Against Sex Offenses Article 14, paragraph 1, subparagraph 2
Coerce a child or a minor to engage in commercial sex acts by threat or assault by taking advantage of the child's or minor's status under the offender's protection or supervision	Act on the Protection of Children and Youth Against Sex Offenses, Article 14, paragraph 1, subparagraph 3

(2) TYPE 2

ELEMENTS OF OFFENSE	APPLICABLE LAW
Commit an offense prescribed in paragraph 1, subparagraph 1 through 3 receives all or part of the consideration therefore, or demands or promises such consideration	Act on the Protection of Children and Youth Against Sex Offenses, Article 14, paragraph 2

3. ARRANGING A CHILD · MINOR TO ENGAGE IN COMMERCIAL SEX ACTS

(1) TYPE 1

ELEMENTS OF OFFENSE	APPLICABLE LAW
Enticing or soliciting a child or a minor to engage in commercial sex acts by threat or assault	Act on the Protection of Children and Youth Against Sex Offenses, Article 14, paragraph 3
Enticing, soliciting, or coercing any third person to buy sex of a child or youth for business purposes	Act on the Protection of Children and Youth Against Sex Offenses, Article 15, paragraph 2, subparagraph 1
Providing a place for commercial sex acts as a business or promise it for business purpose	Act on the Protection of Children and Youth Against Sex Offenses, Article 15, paragraph 2, subparagraph 2, subparagraph 4
Arranging for a child or a minor to engage in commercial sex acts or provide information on the commercial sex acts with a child or a minor through an information and communications network or promise it for business purpose	Act on the Protection of Children and Youth Against Sex Offenses, Article 15, paragraph 2, subparagraph 3, subparagraph 4
Enticing, soliciting, or coercing any third person to have commercial sex acts with a child or a minor	Act on the Protection of Children and Youth Against Sex Offenses, Article 15, paragraph 3

(2) TYPE 2

ELEMENTS OF OFFENSE	APPLICABLE LAW
Enticing, soliciting, or coercing any third person to buy sex of a child or a minor for business purpose	Act on the Protection of Children and Youth Against Sex Offenses, Article 14, paragraph 1, subparagraph 4

(3) TYPE 3

ELEMENTS OF OFFENSE	APPLICABLE LAW
Providing a place for commercial sex acts with a child or a minor as a business	Act on the Protection of Children and Youth Against Sex Offenses, Article 15, paragraph 1, subparagraph 1
Arranging for a child or a minor to engage in commercial sex acts and providing information about the commercial sex acts through an information and communications network as a business	Act on the Protection of Children and Youth Against Sex Offenses, Article 15, paragraph 1, subparagraph 2
Providing capital, land, or a building knowing that it will be used for crimes referred to in subparagraph 1 or 2	Act on the Protection of Children and Youth Against Sex Offenses, Article 15, paragraph 1, subparagraph 3
Helping a business or providing a place to have commercial sex acts with a child or a minor, or arranging to hire a child or minor as a business	Act on the Protection of Children and Youth Against Sex Offenses, Article 15, paragraph 1, subparagraph 4

DEFINITION OF SENTENCING FACTORS

1. CASES WITH SPECIAL EXTENUATING CIRCUMSTANCES THAT MITIGATE THE OFFENDER'S INVOLVEMENT IN THE OFFENSE

- 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.

2. THE VICTIM EXPRESSES THE INTENT OF NON-PUNISHMENT OF THE OFFENDER

- 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 an intention 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.

3. SUBSTANTIAL RESTITUTION TO THE VICTIM

- This refers to cases in which the offender, through genuine and sustained efforts, has restored the damage to a degree comparable to a formal settlement (generally amounting to at least two-thirds of the total loss in cases involving

only property damage), or in which restitution of such degree is reasonably assured.

- In the case of a deposit, this applies only where it amounts to substantial recovery of damages, as determined through careful examination of the following: the opinion of the victim or the victim's legal representative (in case of a deceased victim, this includes the spouse, lineal relatives, and siblings); whether the defendant is able by law to recover the deposited money or is likely to do so; and the nature of the legal interest harmed and the scale and degree of the damage.

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

- This indicates cases in which the offender consistently harassed the victim while attempting to reach a settlement, or put undue pressure on the victim by means of implying tangible or intangible disadvantages, otherwise causing harm through comparable means in response to refusal of settlement.

5. SADISTIC, PERVERSE CONDUCTS, OR EXTREME LEVEL OF SEXUAL HUMILIATION

- This applies where one or more of the following are present:
  - Conduct that cause prolonged immobility to the victim by use of means such as tying,
  - Conducts that inserts substances into the sexual organs of the victim,
  - Using an instrument for sexual gratification on the victim
  - In case of forcing sexual intercourse with multiple persons,
  - Other conducts with other comparable factors.

6. OFFENSE CAUSED SIGNIFICANT PHYSICAL OR PSYCHOLOGICAL HARM TO VICTIM OR A CHILD OR A MINOR INVOLVED

- This indicates cases in which conducts that caused severe harm to the victim or a child or a minor involved, such as pregnancy, sexually transmitted disease, mental disability, or other comparable harms.

7. MORALLY REPREHENSIBLE MOTIVES

- This applies where one or more of the following are present:
  - The offense was committed for the purpose of preventing the victim from reporting another crime committed by the offender.
  - The offense was committed in retaliation against, or out of grievance or hatred toward, the victim.
  - Other cases with comparable factors

8. ARRANGING COMMERCIAL SEX ACTS BY USING ADVERTISEMENT OR OTHER MEDIA WITH HIGH-DISSEMINATION

- This means to use media with high-dissemination to unspecified or large numbers, such as the internet (including SNS or Social Network Services).

9. ATTEMPT TO CONCEAL THE OFFENSE

- This means that the offender actively attempted to conceal the offense by presenting another fake tenant or owner by name only.

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

- It means that the offender has no previous criminal conviction before. However, this does not apply to cases in which the offense was committed repeatedly over an extended period.

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 OFFENSES

- Except for concurrent offenses that are treated as a single offense under the sentencing guidelines, the following method of aggravation for multiple offenses shall apply:
  - ❶ For multiple offenses involving two offenses, the upper end of the sentencing range 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 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 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.

PART B

GUIDELINE ON SUSPENDING A SENTENCE

CLASSIFICATION	ADVERSE	AFFIRMATIVE
Primary Circumstance	• Sadistic, perverse conduct or with an extreme level of sexual humiliation • An offense committed for a prolonged period or in an organized manner • Repeated crimes (having commercial sex acts with a child or a minor) • Cases where the offense caused significant physical or psychological harm to a child or a minor involved • Arranging commercial sex acts through advertising or other media with high-dissemination • Offender abused physical or mental disability of children or a minor who sell sex • Prior convictions for the same-offense (including sex crime, a suspended sentence of imprisonment or a heavier punishment within the past ten years)	• Cases where the offender passively responded to active demand and resulted in committing arrangement of sexual traffic • Cases where the degree of violence is extremely slight or deceptive means used is slight (excluding offenses committed against those under 19 years of age) • The offender attempted to thwart the accomplice's commission of the crime • No prior criminal convictions • Victim expresses the intent of non-punishment (this applies to coercion of commercial sex acts targeting persons aged 19 or older)
General Circumstance	• Two or more prior convictions resulting in a suspended sentence of imprisonment without labor or heavier punishment • Lack of family/social ties • Drug or alcohol addiction • Absence of sincere remorse • Leading role as a co-offender • Post-offense evidence tampering or attempt to conceal or destroy evidence • Causing harm in the course of attempted settlement (excluding cases where separate crimes such as coercion are established)	• An offense was caused by active enticement • No criminal convictions for the same offense, or no prior convictions resulting in a suspended sentence of imprisonment without labor or heavier punishment • Stable family/social ties • Voluntary surrender to investigative authorities or internal whistle-blowing • Sincere remorse • Minor participation • Considerable restitution (this applies to coercion of commercial sex acts targeting persons aged 19 or older) • Victim expresses the intent of non-punishment of the offender or considerable restitution was made to the victim (this applies to a case coercing another person into purchasing commercial sex acts from a child or minor)

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 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.
- Repeated Offense
  - This refers to cases where the offender is found to have repeatedly committed similar offenses, upon comprehensive consideration of the nature of the offense, the offender's history of punishment, and concurrent offense, etc.
  - However, this does not apply to cases in which multiple conducts of purchasing children, minor and/or youth constitute a single 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.