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4 Crimes of Robbery

This guideline applies to adult offenders (nineteen years of age or older) who committed any offenses of Robbery (Criminal Act, Article 333), Special Robbery (Criminal Act, Article 334), *Quasi*-robbery, *Quasi*-special Robbery (Criminal Act, Article 335), Robbery Resulting in Bodily Injury (Criminal Act, Article 337), Robbery Resulting in Death (Criminal Act, Article 338), Habitual Robbery, etc. (Criminal Act, Article 341), Habitual Robbery and the like as prescribed in Aggravated Punishment Act (Aggravated Punishment Act, Article 5-4, paragraph 3), Cumulative Robbery and the like (Aggravated Punishment Act, Article 5-4, paragraph 5), or Repeated Offense of Robbery Resulting in Bodily Injury (Aggravated Punishment Act, Article 5-5).

I. TYPES OF OFFENSE AND SENTENCING PERIODS

01 | GENERAL APPLICABLE PRINCIPLES

Type	Classification	Mitigated Sentencing Range	Standard Sentencing Range	Aggravated Sentencing Range
1	Standard Robbery	1yr 6months - 3yrs	2yrs - 4yrs	3yrs - 6yrs
2	Special Robbery	2yrs 6months - 4yrs	3yrs - 6yrs	5yrs - 8yrs

▷ When the offense falls within *Repeated Crimes* as set forth in the Special Violent Crimes Act, increase the minimum and maximum sentencing range each by multiplying 1.5.

Classification		Mitigating Factor	Aggravating Factor
Special Sentencing Determinant	Conduct	<ul style="list-style-type: none"> Special Considerations can be Taken into Account for Engaging in Offense Use of Force or Threat to Evade Arrest 	<ul style="list-style-type: none"> Five or More Co-Offenders Involved (Type 2) Offense Against a Financial Institution Vulnerable Victims Use of Firearms (Type 2) Instigating the Subordinate Person to Commit the Offense
	Actor /Etc.	<ul style="list-style-type: none"> Those with Hearing and Visual Impairments Those with Mental Incapacity (Cases Where the Offender Cannot be Held Liable) Voluntary Surrender to Investigative Agencies Offender Expresses Remorse and the Victim Opposes Punishment 	
General Sentencing Determinant	Conduct	<ul style="list-style-type: none"> Intent to Steal Insignificant Amount of Money or the Like Use of Slight Degree of Force or Threat Poverty Crime Passive Participation Mere Carrying of a Deadly Weapon (Type 2) 	<ul style="list-style-type: none"> Premeditated Crime Condemnable Motives

Classification		Mitigating Factor	Aggravating Factor
General Sentencing Determinant	Actor /Etc.	<ul style="list-style-type: none"> ● Significant Amount of Money Deposited ● Those with Mental Incapacity (These Are Cases Where the Offender Can be Held Liable) ● Expresses Sincere Remorse ● No Prior Criminal History 	<ul style="list-style-type: none"> ● Repeated Offenses of Different Type under the Criminal Act that Does Not Constitute Repeated Offenses under the Aggravated Punishment Act or the Special Violent Crime Act, Criminal History of Imprisonment by the Same Type of Offenses or by Crime of Violence and Larceny that Does not Constitute Repeated Offense under the Criminal Act (This Applies When the Criminal History is Within Ten Years After Completion of Sentence)

02¹ CASES RESULTING IN BODILY INJURY

Type	Classification	Mitigated Sentencing Range	Standard Sentencing Range	Aggravated Sentencing Range
1	Standard Robbery	2yrs - 4yrs	3yrs - 7yrs	5yrs - 8yrs
2	Special Robbery	3yrs - 6yrs	4yrs - 7yrs	6yrs - 10yrs

- ▷ When the offense causes bodily injury as a result of habitual robbery or *Repeated Crimes of Robbery Causing Bodily Injuries* as set forth in the Aggravated Punishment Act, Article 5-5, the offense falls within *Habitual and Repeated Robbery* offense.
- ▷ When the offense falls within *Repeated Crimes* as set forth in the Special Violent Crimes Act, increase the minimum and maximum sentencing range each by multiplying 1.5.

Classification		Mitigating Factor	Aggravating Factor
Special Sentencing Determinant	Conduct	<ul style="list-style-type: none"> ● Minor Bodily Injuries or Bodily Injuries Resulting from Negligence ● Special Considerations can be Taken into Account for Engaging in Offense ● Bodily Injuries Resulting from a Base Offense of Attempt ● Use of Force or Threat to Evade Arrest 	<ul style="list-style-type: none"> ● Five or More Co-Offenders Involved (Type 2) ● Offense Against a Financial Institution ● Vulnerable Victims ● Serious Bodily Injuries ● Use of Firearms (Type 2) ● Instigating the Subordinate Person to Commit the Offense
	Actor /Etc.	<ul style="list-style-type: none"> ● Those with Hearing and Visual Impairments ● Those with Mental Incapacity (Cases Where the Offender Cannot be Held Liable) ● Voluntary Surrender to Investigative Agencies ● Offender Expresses Remorse and the Victim Opposes Punishment 	

Classification		Mitigating Factor	Aggravating Factor
General Sentencing Determinant	Conduct	<ul style="list-style-type: none"> ● Intent to Steal Insignificant Amount of Money or the Like ● Use of Slight Degree of Force or Threat ● Poverty Crimes ● Passive Participation ● Mere Carrying of a Deadly Weapon (Type 2) 	<ul style="list-style-type: none"> ● Premeditated Crime ● Condemnable Motives
	Actor /Etc.	<ul style="list-style-type: none"> ● Significant Amount of Money Deposited ● Those with Mental Incapacity (These Are Cases Where the Offender Can be Held Liable) ● Expresses Sincere Remorse ● No Prior Criminal History 	<ul style="list-style-type: none"> ● Repeated Offenses of Different Type under the Criminal Act that Does Not Constitute Repeated Offenses under the Aggravated Punishment Act or the Special Violent Crime Act, Criminal History of Imprisonment by the Same Type of Offenses or by Crime of Violence and Larceny that Does not Constitute Repeated Offense under the Criminal Act (This Applies When the Criminal History is Within Ten Years After Completion of Sentence)

03¹ CASES RESULTING IN DEATH

Classification	Mitigated Sentencing Range	Standard Sentencing Range	Aggravated Sentencing Range
Robbery Resulting in Death	6yrs- 11yrs	9yrs - 13yrs	More than 11 years or Life Imprisonment

▷ When the offense falls within *Repeated Crimes* as set forth in the Special Violent Crimes Act, increase the minimum and maximum sentencing range each by multiplying 1.5.

Classification		Mitigating Factor	Aggravating Factor
Special Sentencing Determinant	Conduct	<ul style="list-style-type: none"> Offender's Conduct was Not the Direct Cause of Death 	<ul style="list-style-type: none"> Vulnerable Victims Instigating the Subordinate Person to Commit the Offense
	Actor /Etc.	<ul style="list-style-type: none"> Those with Hearing and Visual Impairments Those with Mental Incapacity (Cases Where the Offender Cannot be Held Liable) Voluntary Surrender to Investigative Agencies Offender Expresses Remorse and the Victim Opposes Punishment (This Includes Genuine Efforts to Reverse Harm) 	<ul style="list-style-type: none"> Absence of Remorse (Excludes Cases Where the Offender is Merely Pleading Not Guilty)
General Sentencing Determinant	Conduct	<ul style="list-style-type: none"> Passive Participation 	<ul style="list-style-type: none"> Offense of Special Robbery
	Actor /Etc.	<ul style="list-style-type: none"> Rescuing or Transferring the Victim to the Hospital After Committing the Offense Significant Amount of Money Deposited Those with Mental Incapacity (These Are Cases Where the Offender Can be Held Liable) Expresses Sincere Remorse 	<ul style="list-style-type: none"> Repeated Offenses of Different Type under the Criminal Act that Does Not Constitute Repeated Offenses under the Special Violent Crime Act, Criminal History of Imprisonment by the Same Type of Offenses or by Crime of Violence that Does not Constitute Repeated Offense under the Criminal Act (This Applies When the Criminal History is Within Ten Years After Completion of Sentence)

04 | HABITUAL · REPEATED OFFENSES OF ROBBERY

Classification	Mitigated Sentencing Range	Standard Sentencing Range	Aggravated Sentencing Range
Habitual · Repeated Offenses of Robbery	5yrs - 8yrs	6yrs - 10yrs	8yrs - 12yrs

- ▷ When the offense falls within *Repeated Crimes* as set forth in the Special Violent Crimes Act, increase the minimum and maximum sentencing range each by multiplying 1.5.
- ▷ However, this is not applicable to cases where the offense falls within *Repeated Crimes of Robbery Causing Bodily Injuries* as set forth in the Aggravated Punishment Act, Article 5-5, which prescribes aggravated punishment for the offense.

Classification		Mitigating Factor	Aggravating Factor
Special Sentencing Determinant	Conduct	<ul style="list-style-type: none"> ● Special Considerations can be Taken into Account for Engaging in Offense ● Use of Force or Threat to Evade Arrest 	<ul style="list-style-type: none"> ● Five or More Co-Offenders Involved ● Offense Against a Financial Institution ● More Than 5 times of Offense (Habitual Robbery) ● Serious Bodily Injuries (Repeated Crime of Robbery Prescribed in the Criminal Act) ● Use of Firearms ● Instigating the Subordinate Person to Commit the Offense
	Actor /Etc.	<ul style="list-style-type: none"> ● Those with Hearing and Visual Impairments ● Those with Mental Incapacity (Cases Where the Offender Cannot be Held Liable) ● Voluntary Surrender to Investigative Agencies ● Offender Expresses Remorse and the Victim Opposes Punishment 	

Classification		Mitigating Factor	Aggravating Factor
General Sentencing Determinant	Conduct	<ul style="list-style-type: none"> ● Intent to Steal Insignificant Amount of Money or the Like ● Bodily Injuries Resulting from a Base Offense of Attempt ● Passive Participation 	<ul style="list-style-type: none"> ● Premeditated Crime ● Condemnable Motives ● Offense of Special Robbery
	Actor /Etc.	<ul style="list-style-type: none"> ● Significant Amount of Money Deposited ● Those with Mental Incapacity (These Are Cases Where the Offender Can be Held Liable) ● Expresses Sincere Remorse 	<ul style="list-style-type: none"> ● Repeated Offenses of Different Type under the Criminal Act that Does Not Constitute Repeated Offenses under the Aggravated Punishment Act or the Special Violent Crime Act, Criminal History of Imprisonment by the Same Type of Offenses or by Crime of Violence and Larceny that Does not Constitute Repeated Offense under the Criminal Act (This Applies When the Criminal History is Within Ten Years After Completion of Sentence) (Habitual Robbery)

[DEFINITION OF OFFENSES]

01¹ GENERAL STANDARD

1. TYPE 1 STANDARD ROBBERY

- Type 1, Standard Robbery, means offenses with the following statutory elements of the offense under the applicable laws.

Elements of Offense	Applicable Law
Robbery	Criminal Act, Article 333
<i>Quasi</i> -Robbery (Robbery Involved with Use of Force or threat to Resist Returning Property, Evade Arrest, and Destroy Traces of Crime)	Criminal Act, Article 335

2. TYPE 2 SPECIAL ROBBERY

Elements of Offense	Applicable Law
Robbery/ <i>quasi</i> -robbery after intrusion into habitation at nighttime	Criminal Act, Article 334 paragraph 1, Article 335
Robbery/ <i>quasi</i> -robbery by carrying deadly weapon, robbery/ <i>quasi</i> -robbery committed by two or more persons	Criminal Act, Article 334 paragraph 2, Article 335

- ※ The following offense constitutes *repeated crimes* as prescribed in the Special Violent Crime Act (Applies to all offenses)

Elements of Offense	Applicable Law
An offender, after sentenced for the offense of a special violent crime as prescribed in Special Violent Crime Act, repeats the commission of a robbery as prescribed in the Act, Article 2, paragraph 1, subparagraph 5 within three years upon the completion of sentence, or upon exemption from sentence.	Special Violent Crime Act, Article 3

02¹ CASES RESULTING IN BODILY INJURY

1. TYPE 1 STANDARD ROBBERY

Elements of Offense	Applicable Law
Bodily injury is caused as a result of robbery/quasi-robbery (including attempts thereof)	Criminal Act, Article 337

2. TYPE 2 SPECIAL ROBBERY

Elements of Offense	Applicable Law
Bodily injury is caused as a result of special robbery/quasi-special robbery (including attempts thereof)	Criminal Act, Article 337

03¹ CASES RESULTING IN DEATH

Elements of Offense	Applicable Law
Death as a result of robbery/quasi-robbery/special robbery/quasi-special robbery (including attempts thereof)	Criminal Act, Article 338

04¹ HABITUAL · REPEATED OFFENSES OF ROBBERY

Elements of Offense	Applicable Law
Habitual commission of robbery or special robbery	Criminal Act Article 341
Habitual commission of robbery or special robbery (including attempts thereof)	Aggravated Punishment Act, Article 5-4, paragraph 3
Commission of robbery or special robbery (and the like) with criminal record of prior sentencing of imprisonment for three or more offenses prescribed in Criminal Act, from Article 333 up to 336 and Article 340 (including attempts respectively)	Aggravated Punishment Act, Article 5-4, paragraph 5
An offender, after sentenced for the offense of the crime under Criminal Act, Article 337 (including attempts thereof), repeats the commission of such offense within three years within three years upon the completion of sentence, or upon exemption from sentence.	Aggravated Punishment Act, Article 5-5

[DEFINITION OF SENTENCING FACTORS]

01 | GENERAL APPLICABLE PRINCIPLES

1. SPECIAL CONSIDERATIONS CAN BE TAKEN INTO ACCOUNT FOR ENGAGING IN OFFENSE

- This 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 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; or
 - Other cases with comparable factors.

2. USE OF FORCE OR THREAT TO EVADE ARREST

- This means cases where the offender uses force or threat, but without the use of dangerous weapons or carrying thereof, to evade being arrested.

3. FIVE OR MORE CO-OFFENDERS INVOLVED

- This means cases where five or more offenders were involved in the commission of the robbery.

4. 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.

5. OFFENDER EXPRESSES REMORSE AND THE VICTIM OPPOSES PUNISHMENT

- This means cases where the offender expresses signs of remorse and the victim acknowledges this and objects to punishing the offender.
- However, this should not apply to cases where the offender nearly forced or deceived the victim for the purposes of objecting to punishing the offender.

6. USE OF SLIGHT DEGREE OF FORCE OR THREAT

- This means cases where the degree of force and threat used in the crime is heavier than that of extortion but slighter than that of general robbery cases.

7. POVERTY CRIMES

- This means cases where one or more of the following factors apply:
 - Offense committed to escape from the offender's impoverished circumstances;
 - Offense committed to pay for hospital expenses or school tuitions and the like; or
 - Other cases with comparable factors

8. PASSIVE PARTICIPATION

- This means cases where the nature of participation in the commission of the offense was passive or the offender had a limited role.
- However, this is not applicable in cases where the offender had an active role in the commission of the offense by causing another person to commit the offense.

9. PREMEDITATED CRIME

- This means cases with one or more of the following factors:
 - Advance preparation and possession of the crime weapon;
 - Planned conspiracy;
 - Inducement of victim;
 - Preparation of destruction of evidence;
 - Prior planning of a flight plan; or
 - Other cases with comparable factors.

10. CONDEMNABLE MOTIVES

- This means cases with one or more of the following factors:
 - Offense committed out of retaliation, grievance, or hatred;
 - Motive derived from the pleasure of committing the crime itself; or
 - Other cases with comparable factors.

11. SIGNIFICANT AMOUNT OF MONEY DEPOSITED

- This means cases where the offender has deposited significant amounts of money after failed attempt to reach an agreement with the victim in a genuine effort to bring restoration for the inflicted harm.

02¹ CASES WITH INJURY AS A RESULT

1. MINOR BODILY INJURIES

- This means cases where the inflicted injury requires less than two weeks of medical care, affecting relatively limited bodily parts, which does not disrupt day-to-day activities of the victim, and does not require medical intervention such as surgical stitches and the like.

2. SERIOUS BODILY INJURIES

- This means cases where the recovery from the inflicted injury requires more than 4 to 5 weeks of medical care in general, including cases with after-effects causing impairment, severe disability resulting from the offense, injuries inflicted to vulnerable body parts or further anticipated bodily injuries.

03¹ CASES RESULTING IN DEATH

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

- This means cases where the offender expresses signs of remorse and the family member of the deceased 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 of an agreement with the family of the deceased victim as a result of the offender's genuine efforts to reverse harm.

2. ABSENCE OF REMORSE (THIS EXCLUDES CASES WHERE THE OFFENDER MERELY DENIES OFFENSE CONDUCT)

- This means cases where the offender admits to committing the crime yet does not express any sign of guilt or remorse but rather justifies the offense conduct. This should be distinguished from merely denying the offense conduct.

[ASSESSING PRINCIPLES APPLICABLE TO THE SENTENCING FACTORS]

01 | DETERMINING APPROPRIATE SENTENCING RANGE

- In determining the appropriate sentencing range, the judge must only consider the special sentencing determinants.
- However, in cases involving more than two special sentencing determinant, the applicable sentencing range is adjusted after assessing the factors as set forth below:
 - ① The same number of conduct factor shall be considered with greater significance than the actor/etc. factor. However, this shall be assessed equally to the victim or the family member of the deceased victim's objection to the punishment.
 - ② Each factor within the relevant categories of conduct or actor/etc. factors should be treated as equal.
 - ③ If the applicable sentencing range is unable to be determined by the aforementioned principles ①, ②, the judge is to decide the applicable sentencing range through a comprehensive comparison and assessment based on the principles set forth in ①, ②.
- It is recommended that when the assessment reveals greater aggravating factors to select the aggravated zone, the mitigating factors is greater to select the mitigating zone, and the same number of aggravating factors and mitigating factors to select the standard zone as a sentencing range.

02 | DETERMINING THE APPLICABLE SENTENCE

- The judge should select the proper point within the sentencing range as assessed in accordance with the above principles, along with the special sentencing determinant and general sentencing determinant taken together.
- When the maximum of the sentencing range exceeds twenty-five years, the judge may impose a life imprisonment.

[GENERAL APPLICATION PRINCIPLES]

01 | SPECIAL ADJUSTMENTS TO THE SENTENCING RANGE

- ① In cases where the aggravating factor is selected and the assessment of the special sentencing determinant reveals only two or more special aggravating factors or the special sentencing determinant outnumbers the special mitigating determinant by two or more, then the sentencing range should be increased up to 1/2 from the maximum level. If this results in a maximum level that exceeds twenty-five years, then the judge may impose a life imprisonment.
- ② For cases where the mitigating factor is selected as a result of assessment of the special sentencing determinant, and there are two or more special mitigating determinant or the special mitigating determinant outnumbers the special aggravating determinant by two or more, the sentencing range should be decreased up to 1/2 from the minimum level.

02 | RELATION BETWEEN THE RECOMMENDED SENTENCING RANGE GUIDELINES AND APPLICABLE SENTENCING RANGE BY LAW

When the sentencing range under this guideline conflicts with the range drawn in accordance with the aggravation and mitigation of applicable law, the sentencing range prescribed by applicable law governs.

03 | APPLICATION OF STATUTORY MITIGATING FACTORS AS DISCRETIONARY

When the judge declines to apply the optional mitigation factor under the applicable law as listed in the sentencing table of this guideline, this shall be considered as the discretion for mitigation.

[GUIDELINE ON MULTI-COUNT CONVICTIONS]

01 | APPLICABLE SCOPE


- This part on multi-count convictions applies to concurrent crimes prescribed in the first part of Article 37 of the Criminal Act as set forth in this sentencing guideline. However, in cases of this article's concurrent crimes where offenses that fall within and outside of the sentencing guidelines are involved, the minimum level should be the minimum of the sentencing range of the offense that is set forth in this sentencing guideline.

02 | DETERMINING BASE OFFENSE

- The “base offense” means the most severe offense that results after the selection of penalty and statutory aggravation and mitigation as prescribed in Criminal Act, Article 50. However, in cases where the maximum sentencing range is lower than that of the maximum sentencing range of the other counts as provided in this guideline, then such other count becomes the base offense.

03 | CALCULATING SENTENCING RANGE

- For purposes of calculating sentencing range for multi-count conviction cases, the judge shall apply the following unless the offenses are deemed as a single offense under the sentencing guideline.
 - ① In setting sentencing range for an offender convicted of two counts, the sentencing range should be the total sum of the maximum sentencing range of the base offense and the 1/2 of the maximum sentencing range of the second count.
 - ② In setting sentencing range for an offender convicted of three or more counts, the sentencing range should be the total sum of the following: (1) maximum sentencing range of the base offense, (2) 1/2 of the maximum sentencing range of the count with the highest sentencing range, and (3) 1/3 of the maximum sentencing range of the remaining count with the second highest sentencing range.

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- ③ For cases where the minimum sentencing range of the other count is higher than that of the base offense, the minimum sentencing range resulting from the multi-count offense should be the minimum sentencing range of the other count.

II. GUIDELINE ON SUSPENSION OF SENTENCE

Classification	Adverse	Affirmative
<p>Primary Consideration Factor</p>	<ul style="list-style-type: none"> ● Criminal History of the Same Offense (Imposing of Suspension of Sentence or More Severe Punishment Within Five Years) ● Vulnerable Victims ● Use of Dangerous Objects ● Serious Bodily Injury 	<ul style="list-style-type: none"> ● Offender Attempted to Thwart the Accomplice's Commission of the Crime ● Bodily Injuries Resulting from a Base Offense of Attempt ● Offender Expresses Remorse and Victim Opposes Punishment (Includes Genuine Efforts to Reverse Harm) ● Use of Force or Threat to Evade Arrest ● No Prior Criminal History
<p>General Consideration Factor</p>	<ul style="list-style-type: none"> ● Two or More Criminal History on Suspension of Sentence or for a Greater Offense ● Premeditated Crime ● Active Participation as an Accomplice ● Destroying Evidence or Attempting to Conceal Evidence After Commission of the Offense ● Lack of Social Ties ● Drug or Alcohol Addiction ● Absence of Remorse ● Absence of Efforts to Reverse Harm 	<ul style="list-style-type: none"> ● Passive Participation as an Accomplice ● Strongly-Established Social Ties ● Voluntary Surrender to Investigative Agencies ● Expresses Sincere Remorse ● No Criminal History of Suspension of Sentence or Imposing of Other Sentences More Severe ● Cases of Physically-ill Offenders ● Cases where the Arrest of the Offender would Cause Severe Hardship to the Offender's Dependent Family Member ● Cases of Old-age Offenders

[DEFINITIONS OF CONSIDERATION FACTORS FOR SUSPENSION OF SENTENCE]

- In cases where the consideration factors for suspension of sentence of sentencing 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 involving suspension of sentence, calculate from the date the defendant's suspension of sentence was affirmed up to the date of the commission of the offense. In cases imposing imprisonment, calculate from the final date of the completion of the sentence up to the date of the commission of the offense.

[ASSESSING PRINCIPLES APPLICABLE TO THE CONSIDERATION FACTORS FOR SUSPENSION OF SENTENCE]

- For cases where the imposing penalty is imprisonment, in deciding whether the suspension of sentence is appropriate, the primary consideration factor should be taken into account with greater importance than the general consideration factors. This is further specified as follows:
 - ① In cases where only two or more primary affirmative factors exist or when primary affirmative factors outnumber the major adverse factor by two or more, suspension of sentence is recommended.
 - ② In cases where two or more primary adverse factors exist or when primary adverse factors outnumber the primary affirmative factor by two or more, imprisonment is recommended.
 - ③ In cases other than ①, ②, or even if cases of ①, ②, if the difference between the number of general adverse(affirmative) factors and general affirmative (adverse) factors is greater than that of adverse and affirmative factors of the primary consideration, then the judge shall decide whether to suspend the sentencing after assessing and comprehensively taking into account the factors listed under the suspension of sentence section.