

Amendments to Delaware Superior Court Criminal Rules 32.1 and 35 Related to Sentence Modification

The Delaware Superior Court has amended its Criminal Rules 32.1 and 35 to effect two changes.

First, new Criminal Rule 32.1(c) has been added to clarify that the rules, statute, and procedures currently used to adjudicate violations of probation in Superior Court shall also be used to adjudicate any alleged violation of a term or condition of partial confinement or probation that remains a part of one's sentence after any act of executive clemency.

Second, this amendment adds a new subsection (e) to Rule 35 to provide that reduction or modification through the Court via Rule 35 is unavailable to seek further reduction or modification of any sentence that has already been altered, reduced, or modified by the Governor's act of executive clemency. This amends the Court's rule to explicitly prohibit such redundant petitions for sentence reduction.

Superior Court Criminal Rules 32.1 and 35 are on the [Rules of the Delaware State Courts website](#).

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

**ORDER AMENDING RULES 32.1 and 35
OF THE
SUPERIOR COURT RULES OF CRIMINAL PROCEDURE**

This 19th day of July 2022, **IT IS ORDERED** that:

(1) Superior Court Criminal Rule 32.1 is amended to add the following new subdivision:

* * *

(c) Procedures applicable to sentences previously modified by act of executive clemency. The provisions of subdivisions (a) and (b) of this rule and of 11 *Del. C.* § 4334 shall apply to any alleged violation of a condition of partial confinement or probation that remains a term or condition of the court's sentence after alteration, reduction, or modification of such sentence by pardon, commutation of sentence, reprieve, remission, or any other act of executive clemency.

(2) Superior Court Criminal Rule 35 is amended to add the following new subdivision:

* * *

(e) Remedy unavailable for sentences previously modified by act of executive clemency. The remedy afforded by this rule may not be sought to further reduce or modify any sentence that was previously altered, reduced, or modified by pardon, commutation of sentence, reprieve, remission, or any other act of executive clemency.

(2) This amendment shall take effect on August 1, 2022 and shall apply to violation hearings conducted on or after that date and to motions for sentence reduction or modification filed or pending on or after that date.

(3) An original of this Order shall be filed with the Prothonotary for each county.