§ 85.00 Sentence of intermittent imprisonment.

1. Definition. A sentence of intermittent imprisonment is a revocable sentence of imprisonment to be served on days or during certain periods of days, or both, specified by the court as part of the sentence. A person who receives a sentence of intermittent imprisonment shall be incarcerated in the institution to which he is committed at such times as are specified by the court in the sentence.

2. Authorization for use of sentence. The court may impose a sentence of intermittent imprisonment in any case where:

(a) the court is imposing sentence, upon a person other than a second or persistent felony offender, for a class D or class E felony or for any offense that is not a felony; and

(b) the court is not imposing any other sentence of imprisonment upon the defendant at the same time; and

(c) the defendant is not under any other sentence of imprisonment with a term in excess of fifteen days imposed by any other court; and

3. Duration of sentence. A sentence of intermittent imprisonment may be for any term that could be imposed as a definite sentence of imprisonment for the offense for which such sentence is imposed. The term of the sentence shall commence on the day it is imposed and shall be calculated upon the basis of the duration of its term, rather than upon the basis of the days spent in confinement, so that no person shall be subject to any such sentence for a period that is longer than a period that commences on the date the sentence is imposed and ends on the date the term of the longest definite sentence for the offense would have expired, after deducting the credit that would have been applicable to a definite sentence for jail time but without regard to any credit authorized to be allowed against the term of a definite sentence for good behavior. The provisions of section five hundred-l of the correction law shall not be applicable to a sentence of intermittent imprisonment.

4. Imposition of sentence. (a) When the court imposes a sentence of intermittent imprisonment the court shall specify in the sentence:

(i) that the court is imposing a sentence of intermittent imprisonment;

(ii) the term of such sentence;

(iii) the days or parts of days on which the sentence is to be served, but except as provided in paragraph (iv) hereof such specification need not include the dates on which such days fall; and

(iv) the first and last dates on which the defendant is to be incarcerated under the sentence.

(b) The court, in its discretion, may specify any day or days or parts thereof on which the defendant shall be confined and may specify a period to commence at the commencement of the sentence and not to exceed fifteen days during which the defendant is to be continuously confined.