§ 85.05 Modification and revocation of sentences of intermittent imprisonment.

1. Authorization. A sentence of intermittent imprisonment may be modified by the court in its discretion upon application of the defendant; and the court on its own motion may modify or revoke any such sentence if:

(a) the court is satisfied during the term of the sentence that the defendant has committed another offense during such term;

(b) the defendant has failed to report to the institution to which he has been committed, or to the institution designated by the head of the agency to which he has been committed, on a day or dates specified in the commitment and is unable or unwilling to furnish a reasonable and acceptable explanation for such failure; or

(c) the defendant has violated a rule or regulation of the institution or agency to which he has been committed and the head of such institution or agency or someone delegated by him has reported such violation in writing to the court.

2. Interruption of sentence. In any case where the defendant fails to report to the institution or to an institution of the agency to which he has been committed, the term of the sentence shall be interrupted and such interruption shall continue until the defendant either reports to such institution or appears before the court that imposed the sentence, whichever occurs first. If the defendant reports to the institution before he appears before the court, he shall be brought before the court.

3. Action by court. The court shall not modify or revoke a sentence of intermittent imprisonment unless the defendant has been afforded an opportunity to be heard. Any modification of a sentence of intermittent imprisonment:

(a) may provide (i) for different or additional or fewer days or parts of days on which the defendant is to be confined, or (ii) where the defendant has failed to report as specified in the sentence, an extension of the term of the sentence for the period during which it was interrupted, or (iii) for both; and

(b) shall be by written order of the court and shall be delivered and filed in the same manner as the original sentence, as specified in subdivision two of section 85.10 of this article.

4. Jail time. Where a sentence of intermittent imprisonment is revoked and a sentence of imprisonment is imposed in its place for the same offense, time spent in confinement under the sentence of intermittent imprisonment shall be calculated as jail time under subdivision three of section 70.30 of this chapter and shall be added to any jail time accrued against such sentence prior to imposition thereof.