

How Does a Suspended Sentence Work in District Courts in Sydney?

Since jail time must be treated as a last resort, a suspended sentence is one of several sentencing options that are open to judges in the [district courts in Sydney](#).

A [suspended sentence](#) is essentially a good behaviour bond, but the consequences for breaching it can be very severe.

Technically an imprisonment sentence is still imposed on you if you are given a suspended sentence, but the actual completion of the sentence in jail is what gets suspended.

A suspended sentence means that you don't actually go to jail at all.

According to [section 12 of the Crimes \(Sentencing and Procedure\) Act](#), a person who has been given a suspended sentence must enter into a good behaviour bond.

The good behaviour bond must not be for a longer period of time than the term of the sentence, and the term of the sentence must be two years imprisonment or less.

How does a court decide whether or not to grant a suspended sentence?

The court must first make a decision about the length of the prison sentence, before suspending it.

Their decision on the length should not be influenced by the fact that only sentences of two years or less are liable for suspended sentences.

For example, a person convicted of reckless wounding faces a

maximum prison sentence of seven years.

If the judge considers a sentence of four years is appropriate in the circumstances, he or she cannot decrease it to two years just so that the offender can benefit from a suspended sentence.

If however, the individual circumstances of the case mean that the judge finds the person deserving of two years in jail, the judge would be free to consider a suspended sentence.

Factors that a judge must consider are:

- Whether a suspended sentence would still reflect the seriousness of the offence
- Whether it would fulfil the purposes of punishment
- The more lenient an alternative to spending time in jail is, the less likely it is to fulfil the purposes of punishment
- When a court hands down a sentence, they must explain the reasoning behind their decision.

It is not possible in NSW to suspend just part of a sentence, however this is possible under Commonwealth law.

If a defendant is already doing time for another offence, the court cannot order a suspended sentence.

What happens if I breach a suspended sentence?

During a suspended sentence, all the usual rules of a good behaviour bond apply – which means that you will need to be of good behaviour; in other words, you cannot commit any further criminal offences.

You will normally also come under the supervision of the department of community corrections, formerly known as the probation and parole service.

There may also be extra conditions such as abiding by the

directions of a psychologist or psychiatrist, or undertaking a specific rehabilitation program.

Any breach of a suspended sentence is considered to be especially serious.

If the court suspects that you are in breach, you will be called back to court and will need to answer for the breach.

Any failure to appear could result in a warrant being put out for your arrest.

Breaches of a good behaviour bond while serving a suspended sentence mean that by law the court must revoke the good behaviour bond.

There are two exceptions:

- If the court is convinced that the breach was trivial in nature; or
- If there are other good reasons why you failed to comply with the bond

Good reasons may include extenuating circumstances surrounding the breach but cannot include subjective or personal matters.

If your suspended sentence order is revoked, it means that your original sentence will still apply.

The court is free to decide that instead of imprisonment, you may serve the sentence by way of an intensive correction order or home detention.

If the court reaches the conclusion that you must be sentenced to imprisonment, it will impose a non-parole period and an additional term.

The non-parole period is the time that you must spend in prison before being eligible for release.

If you are in danger of breaching your suspended sentence, or

if you have already breached it, you should contact an experienced criminal lawyer straight away as they may be able to avert the breach or minimise the damage caused.