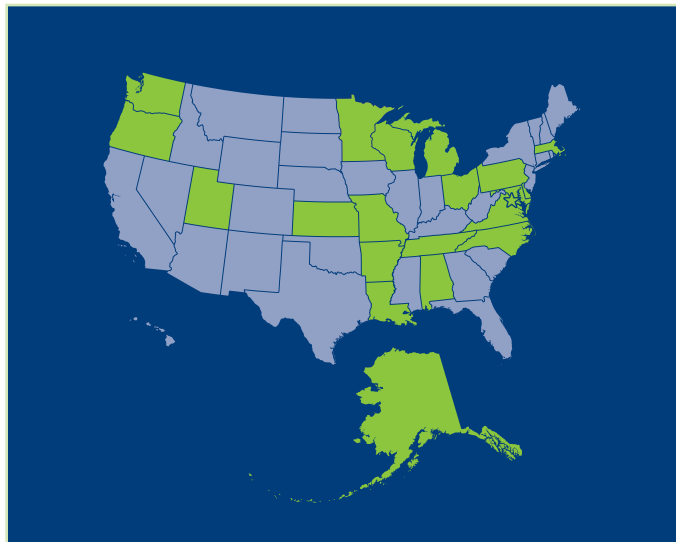


State Sentencing Guidelines

Profiles and Continuum



■ States with Sentencing Guidelines Systems

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Launched in 2006, the Public Safety Performance Project seeks to help states advance fiscally sound, data-driven policies and practices in sentencing and corrections that protect public safety, hold offenders accountable, and control corrections costs.

The Pew Charitable Trusts applies the power of knowledge to solve today's most challenging problems.

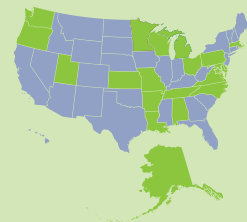
Pew's Center on the States identifies and advances effective policy approaches to critical issues facing states.

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The mission of the National Center for State Courts is to improve the administration of justice through leadership and service to state courts and courts around the world.



Introduction

“Active participation by a Sentencing Commission is an essential element of effective guidelines,” according to a recent research report [Assessing Consistency and Fairness in Sentencing \(National Center for State Courts, 2008\)](#). The report is based on a comparative inquiry into how sentencing guidelines shape who is sentenced to prison and for what length of time. A key finding of the study is that Commissions play a critical role in designing guidelines, assessing whether guidelines are working as intended, and identifying how needed adjustments might best be made.

Information on the role and contributions of Sentencing Commissions is appreciated by Commission members as well as state and local policymakers, prosecutors and criminal defense attorneys, and state judiciaries. However, even the most active and prominent Commissions are not fully aware of how they compare to their counterparts in other states. Likewise, individuals with an interest in sentencing reform have little comparative information available on alternative guideline systems. As with many state public policy programs, limited literature exists on the rationale and mechanics of individual state programs as well as similarities and differences across states and much of what does exist might best be called “fugitive literature.”

To help remedy this situation, the National Center for State Courts has developed a set of “State Sentencing Commission Profiles” to present what is currently happening in practice. This overview of Commissions and their guidelines builds on an earlier report produced in 1997 by the NCSC in collaboration with the National Association of Sentencing Commissions titled [Sentencing Commission Profiles, \(National Center for State Courts, 1997\)](#). Much has happened in the field of structured sentencing over the past decade, resulting in a need for current and more expansive information.

What are Sentencing Guidelines?

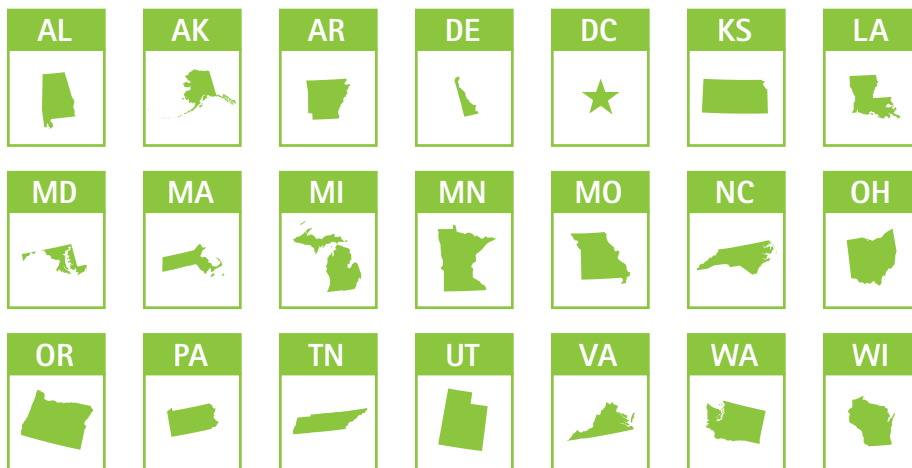
Sentencing guidelines provide structure at the criminal sentencing stage by specifically defining offense and offender elements that should be considered in each case. After considering these elements using a grid or worksheet scoring system, the guidelines recommend a sentence or sentence range. Options usually include some period of incarceration (prison or jail), probation, or an alternative sanction. Goals of guidelines vary, but an underlying theme is that offenders with similar offenses and criminal histories be treated alike. Guidelines vary considerably in terms of whether they are promulgated by the legislature or judiciary, when judges must follow the recommendations, and what rights are afforded to those who disagree with imposed guidelines sentences.

State Sentencing Guidelines

Profiles and Continuum

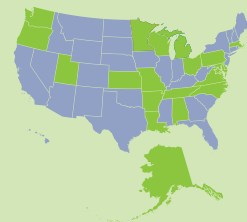
In response to these changing circumstances and needs, this report describes each state Sentencing Commission, identifies key attributes of the guidelines, and provides a useful means to compare alternative guideline systems along a continuum from more voluntary to more mandatory. This information is essential to address a range of questions that are regularly asked by officials in states with and without guidelines.

There are many challenges to assembling this information and making it accurate and up to date. A fundamental issue in some states is determining whether or not sentencing guidelines are in place. Surprisingly, it is not always clear whether a particular state's guideline system is still operational. A related problem is that some states with guidelines do not have Commissions. Finally, the desired information is seldom found in a single location, and must instead be obtained from various published and unpublished sources. Although there might not be universal agreement on which states currently have active sentencing guidelines, this report profiles the following 21 sentencing guidelines systems:



Additional Information Available Online

Two platforms are used to report the similarities and differences in state guideline sentencing systems. First, the report is available in print. Second, the report is available as a [dynamic on-line document](#) that provides access to more comprehensive information on each state's system (including sentencing guidelines grids or worksheets). In addition, plans for posting the information contained in this report in a tabular cross-state comparative format are also underway.



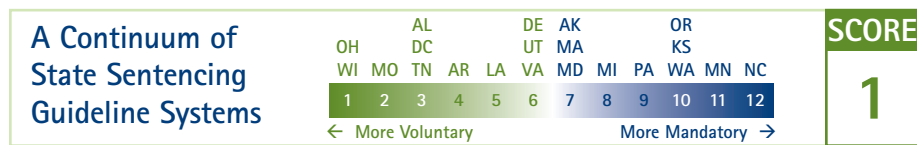
About This Document

Both the print and PDF documents contain the following sections:

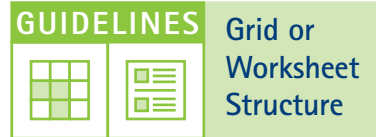
- (1) **Profile.** Specifies when the Sentencing Commission was established and its goals and rationale.
- (2) **Purpose.** Outlines the type of sentencing guideline system in place and documents the original or revised purposes of the system.
- (3) **Commission Members.** Lists the number of Commission members, shows each member's affiliation, and indicates the extent of Commission staff support and how often the Commission meets.
- (4) **Sentencing Guideline Continuum.** Introduces a means to compare and contrast six common characteristics that define and differentiate alternative state guideline systems. The criteria describe how guidelines might affect judicial discretion, such as whether there is an enforceable rule related to guideline use and whether appellate review is allowed in order to sort each state's system from more voluntary to more mandatory. The continuum is created by assigning points to each state based on the answers to six questions concerning the guidelines' basic organizational aspects and structural features. These are:

- Is there an enforceable rule related to guideline use?
- Is the completion of a worksheet or structured scoring form required?
- Does a Sentencing Commission regularly report on guideline compliance?
- Are compelling and substantial reasons required for departures?
- Are written reasons required for departures?
- Is there appellate review of defendant-based challenges related to sentencing guidelines?

For each question, a state is awarded 0 points for a “no or unlikely” position, 1 point for a “possible or moderate” position, and 2 points for a “yes or likely” position. Summing the points determines the degree to which the system is mandatory or voluntary. Systems having higher total scores based on all six questions are rated more mandatory than those with lower scores. The following diagram arrays the states on a single continuum with one pole emphasizing highly voluntary systems and the other pole emphasizing highly mandatory guidelines. At one end of the continuum, two states (Ohio and Wisconsin) each have a total of one point and one state (North Carolina) has a total of 12 points. Because guidelines systems are developing over time, some states might score slightly differently today than when the data were collected in 2007.



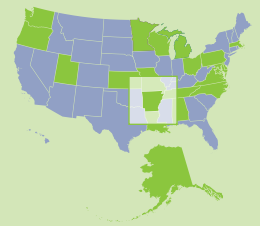
(5) **Structure, Grids, Worksheets.** A clickable icon takes the interested reader to more detailed information on the mechanics of each state's sentencing guidelines. This material includes how the guidelines are structured, to which offenses they apply, and how judges apply them. Moreover, a full set of guideline grids and/or worksheets can be viewed on screen or printed. The link to each state commission's website is provided as a source for updates and revisions, with the caveat that some states do not maintain active websites for their sentencing guidelines.



Each Sentencing Commission profile is designed to summarize important aspects of a particular state's sentencing system, not to provide a definitive analysis or evaluation. To further this goal, each profile is limited to a single page, facilitating quick comprehension and comparison of the fundamentals of each state's system. The profile information reflects the status in each state during 2008, except for the continuum data as mentioned above.

Sources of Information for this Report

A primary source for the information in this report is the official website for each state Sentencing Commission. When websites were nonexistent or not fully inclusive, other credible government internet sites were used. These alternative sites could have included a state's Administrative Office of the Courts, the State Planning Agency, the Statistical Analysis Center, or a Judicial Advisory or other type of Commission. Project staff also drew from annual and special reports, made phone calls to state agency or Commission staff, and reviewed state statutes. The full set of sources varied by state, and is documented with the grids and worksheets in the on-line version of this report. In addition, all references and sources used to develop the continuum criteria are available in [*Assessing Consistency and Fairness in Sentencing* \(National Center for State Courts, 2008\)](#).



GUIDELINES



Grid or
Worksheet
Structure

10 offense level grids, each with
6 prior record levels.

Profile

The intent of the Arkansas Sentencing Commission is to:

- Establish sentencing standards.
- Monitor and assess the impact of practices, policies and existing laws on the correctional resources of the State.

Continuum Criteria

Is there an enforceable rule related to guideline use?

The code specifically refers to the sentencing standards as voluntary.

Is the completion of a worksheet or structured scoring form required?

The office of the prosecuting attorney is responsible for the completion of Judgment and Commitment and Judgment and Disposition forms.

Does a Sentencing Commission regularly report on guideline compliance?

The Arkansas Sentencing Commission has studied the rate of compliance with sentencing standards.

Are compelling and substantial reasons required for departures?

Judges can depart from the sentencing standards in “non-typical” cases.

Are written reasons required for departures?

Arkansas requires written reasons for departures for negotiated pleas but not for bench trials.

Is there appellate review of defendant-based challenges related to sentencing guidelines?

A defendant may not appeal a sentence departure.

Purpose

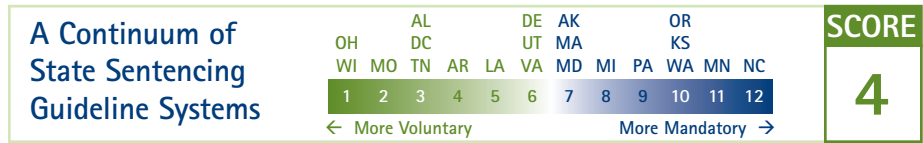
In 1993, the Arkansas Sentencing Commission adopted voluntary sentencing guidelines to serve the purposes of:

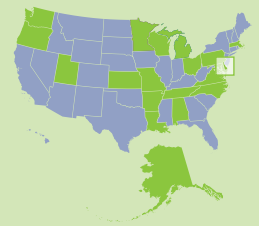
- Equity in sentencing (similar sentences for similar offenders with similar criminal histories).
- Proportionality in sentencing (a balanced correctional system which reserves the most serious sanctions for the most serious offenders).

**11 Commission Members
(9 Voting, 2 Non-Voting)**

- 3 judges
- 2 prosecuting attorneys
- 1 public defender
- 1 defense attorney
- 2 citizen representatives
- 1 designee of the chair of the senate judiciary committee (non-voting)
- 1 designee of the chair of the house judiciary committee (non-voting)

The Commission meets at least quarterly. It employs 5 staff members.





GUIDELINES



Grid or Worksheet Structure Violent felony grid, 7 offense and 6 prior record levels; non-violent felony grid, 7 offense and 2 prior record levels.

Profile

The Delaware Sentencing Accountability Commission (SENTAC) was created in 1983 to establish a system that emphasizes accountability of the offender to the criminal justice system and accountability of the criminal justice system to the public.

Continuum Criteria

Is there an enforceable rule related to guideline use?

The 2005 sentencing “Benchbook” indicates that the guidelines are voluntary and non-binding.

Is the completion of a worksheet or structured scoring form required?

Completion of sentencing worksheets is required.

Does a Sentencing Commission regularly report on guideline compliance?

Delaware has not published any studies regarding sentencing compliance.

Are compelling and substantial reasons required for departures?

Judges may depart from the standard sentence range if they find that there are substantial and compelling reasons justifying an exceptional sentence.

Are written reasons required for departures?

The governing factor(s) leading to the exceptional sentence must be stated for the record and should be identified in the sentencing order or on the sentencing worksheet.

Is there appellate review of defendant-based challenges related to sentencing guidelines?

A defendant may not appeal a sentence departure.

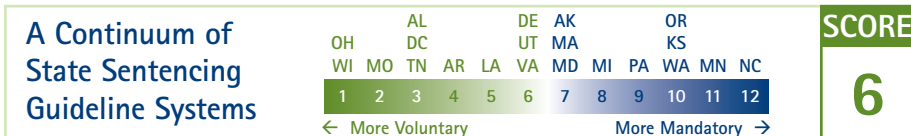
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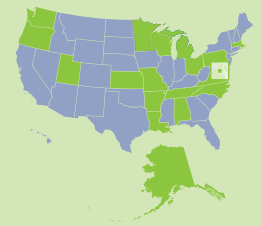
Delaware’s voluntary sentencing guidelines, known as the “Benchbook,” are designed to ensure certain and consistent punishment commensurate with the seriousness of the offense and taking into consideration resource availability and cost.

11 Commission Members

- 4 judges
- the commissioner of correction
- the attorney general
- the chief public defender
- 2 members at large appointed by the governor
- 1 member at large appointed by the president pro tempore of the senate
- 1 member at large appointed by the speaker of the house

The Commission meets 6 times per year. 2 members of the Delaware Criminal Justice Council staff are assigned to support the Commission.





GUIDELINES Grid or Worksheet Structure Master grid, 9 offense and 5 criminal history levels; drug grid, 3 offense and 5 criminal history levels.

Profile

The District of Columbia Sentencing and Criminal Code Revision Commission traces its roots to the D.C. Advisory Commission on Sentencing, established in 1998. The D.C. Council has directed the Commission to:

- Develop, implement, monitor, and support the District’s voluntary sentencing guidelines.
- Promote fair and consistent sentencing policies.
- Increase public understanding of sentencing policies and practices.
- Conduct an annual review of sentencing data, policies, and practices in D.C.
- Propose reforms in the criminal code to create a uniform and coherent body of criminal law in D.C.

Continuum Criteria

Is there an enforceable rule related to guideline use?

The 2005 practice manual states that the guidelines are voluntary.

Is the completion of a worksheet or structured scoring form required?

Judges are not required to complete sentencing guideline worksheets.

Does a Sentencing Commission regularly report on guideline compliance?

The Commission has reported some preliminary data on compliance.

Are compelling and substantial reasons required for departures?

Judges are allowed to depart from the guidelines based on the presence of aggravating or mitigating factors.

Are written reasons required for departures?

The judge must state on the record the aggravating or mitigating factors that are relied upon. Judges who do not follow the guidelines are encouraged to fill out a sentencing data form specifying the reason(s).

Is there appellate review of defendant-based challenges related to sentencing guidelines?

A defendant may not appeal a sentence departure.

Purpose

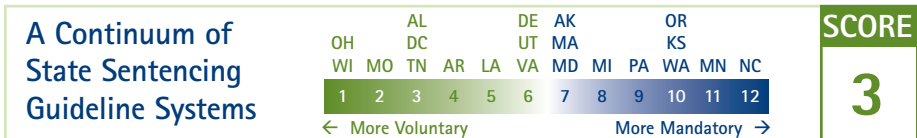
The District of Columbia’s voluntary sentencing guidelines are designed to:

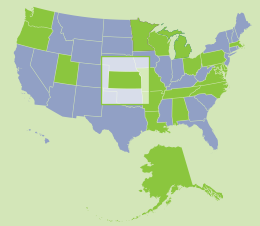
- Reflect the seriousness of the offense and the offender’s criminal history.
- Provide for just punishment.
- Afford adequate deterrence to any offender.
- Provide the offender with needed educational or vocational training, medical care, and other correctional treatment.
- Provide for the use of intermediate sanctions in appropriate cases.

20 Commission Members (15 Voting, 5 Non-Voting)

- 3 superior court judges
- the director of the court services and offender supervision agency
- the U.S. attorney
- the attorney general
- the director of the public defender service
- 1 private criminal defense attorney
- 1 bar member not specializing in the practice of criminal law
- 1 professional from an established organization devoted to research and analysis of sentencing issues and policies
- 3 professionals from established organizations devoted to the research and analysis of criminal justice issues
- 2 citizens who are not attorneys
- the director of the department of corrections (non-voting)
- the chief of the metropolitan police department (non-voting)
- the director of the U.S. bureau of prisons (non-voting)
- the chair of the U.S. parole commission (non-voting)
- the chair of the council committee overseeing the Commission (non-voting)

The Commission is authorized by statute to meet as necessary. It currently meets on a monthly basis and employs 6 staff members.





GUIDELINES



Grid or
Worksheet
Structure

Non-drug grid, 10 offense and
9 prior record levels; drug grid,
4 offense and 9 prior record levels.

Profile

The Kansas Sentencing Commission was established in 1989 for the purpose of developing sentencing guidelines. Its current goals are to:

- Develop and maintain a monitoring system that allows for comprehensive evaluation of the sentencing guidelines.
- Forecast the state’s adult and juvenile offender populations incarcerated in state institutions and determine the impact of proposed legislation on the prison population.
- Assist in the process of educating and training judges, attorneys, court services officers, state parole officers, correctional officers, law enforcement officials, and other criminal justice groups in the understanding and application of sentencing guidelines.
- Serve as an information resource for the legislature and various state criminal justice agencies.

Continuum Criteria

Is there an enforceable rule related to guideline use?

The statute states that the court has discretion to sentence anywhere within the sentencing range.

Is the completion of a worksheet or structured scoring form required?

Completion of guideline worksheets is required.

Does a Sentencing Commission regularly report on guideline compliance?

One of the Commission’s objectives is to determine how often guidelines are used, the characteristics of offenders and the offenses committed, the number and types of departure sentences, and the overall conformity of sentences to the sentencing guidelines.

Are compelling and substantial reasons required for departures?

The sentencing judge must impose the presumptive sentence stated in the guideline, unless there are substantial and compelling reasons for departure.

Are written reasons required for departures?

If the sentencing judge departs from the presumptive sentence, the judge shall state on the record at the time of sentencing the substantial and compelling reasons for the departure.

Is there appellate review of defendant-based challenges related to sentencing guidelines?

A departure sentence may be appealed by the defendant (the state may also appeal).

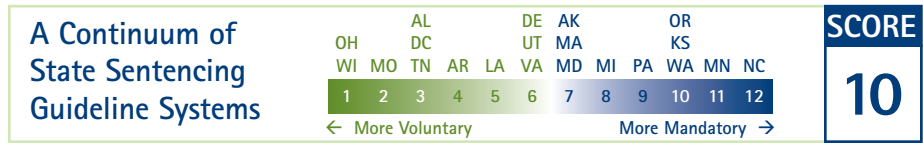
Purpose

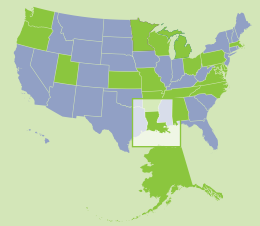
The philosophy of the Kansas Sentencing Commission is that criminal sentences should be imposed fairly, rationally and consistently, and that incarceration should be reserved for the most serious offenders. The sentencing guidelines are designed to establish rational and consistent sentencing standards that reduce sentence disparity, including racial and regional biases.

17 Commission Members

- the chief justice of the supreme court
- 2 district court judges
- 4 members of the legislature
- the secretary of corrections
- the chair of the parole board
- the attorney general
- 1 public defender
- 1 private defense attorney
- 1 county or district attorney
- the director of a community corrections program
- 1 court services officer
- 2 members of the general public, at least 1 of whom is a member of a racial minority group

The Commission meets monthly. It employs 12 staff members.





GUIDELINES

Grid or
Worksheet
Structure

Felony grid, 9 offense and
7 criminal history levels.

Profile

The Louisiana Sentencing Commission was created in 1987 under the jurisdiction of the Louisiana Commission on Law Enforcement and Administration of Criminal Justice in the office of the governor. The guidelines became effective on January 1, 1992. In 1995, the advisory sentencing guidelines were made voluntary.

Continuum Criteria

Is there an enforceable rule related to guideline use?

Language does not indicate that the guidelines are mandatory.

Is the completion of a worksheet or structured scoring form required?

The Commission requires completion of sentencing reports.

Does a Sentencing Commission regularly report on guideline compliance?

No information is readily available pertaining to studies on guideline compliance.

Are compelling and substantial reasons required for departures?

A judge can reject the guideline recommendation and impose any sentence which is not constitutionally excessive and which is within the statutory sentencing range for the crime for which the defendant has been convicted.

Are written reasons required for departures?

A court must state on the record any aggravating, mitigating, or other circumstances it takes into account in departing from the recommended sentence.

Is there appellate review of defendant-based challenges related to sentencing guidelines?

A defendant may not appeal based on a departure from the guidelines, although the defendant may appeal a sentence “which exceeds the maximum sentence authorized by the statute under which the defendant was convicted and any applicable statutory enhancement provisions.”

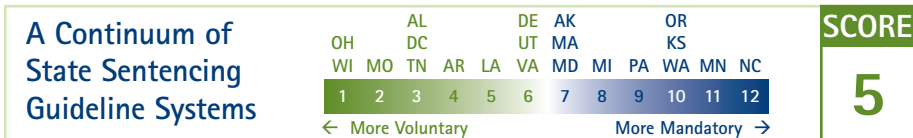
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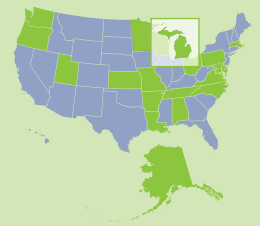
The purpose of the guidelines is to recommend a sanctioning policy that ensures certainty, uniformity, consistency, and proportionality of punishment, fairness to victims, and the protection of society. The guidelines are also intended to assist the court in stating for the record the considerations taken into account and the factual basis for imposing sentence.

**23 Commission Members
(19 Voting, 4 Non-Voting)**

- 1 supreme court justice
- 1 appellate judge
- 5 district court judges
- 1 city court judge
- 2 members of the house of representatives
- 2 senators
- 2 district attorneys
- 2 defense attorneys
- 2 sheriffs
- 1 felony crime victim
- 1 representative of the law institute (non-voting)
- 1 representative of the commission on law enforcement and administration of criminal justice (non-voting)
- the secretary of public safety and corrections (non-voting)
- 1 professional with a doctorate in social science or criminal justice (non-voting).

No information available regarding staffing or frequency of meetings.





GUIDELINES



Grid or Worksheet Structure 9 grids with 6 prior record levels: 5 with 6 offense levels, 1 with 4 offense levels, and 3 with 3 offense levels.

Profile

In 1983, the Michigan judiciary implemented an indeterminate sentencing guidelines system. In 1994, the Michigan Sentencing Commission was established to draft a set of statutory sentencing guidelines. The statutory guidelines were enacted in 1998, and the Sentencing Commission was subsequently disbanded.

Continuum Criteria

Is there an enforceable rule related to guideline use?

The minimum sentence imposed by a court shall be within the appropriate sentence range under the guidelines in effect on the date the crime was committed.

Is the completion of a worksheet or structured scoring form required?

Worksheet completion is required, but there is no Commission to monitor compliance.

Does a Sentencing Commission regularly report on guideline compliance?

No information is readily available pertaining to studies on guideline compliance.

Are compelling and substantial reasons required for departures?

Judges can depart from the appropriate sentence range established under the sentencing guidelines if the court has a substantial and compelling reason for the departure.

Are written reasons required for departures?

The reasons for departures must be stated on the record.

Is there appellate review of defendant-based challenges related to sentencing guidelines?

A defendant may not appeal a sentence departure.

Purpose

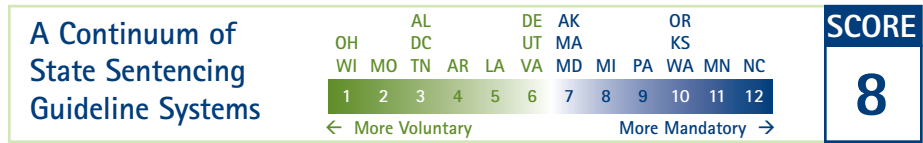
Michigan’s sentencing guidelines are designed to:

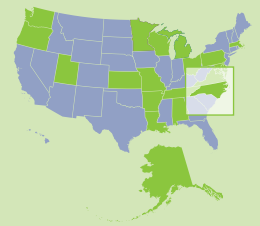
- Increase consistency in sentencing so that similarly situated offenders receive similar sentences.
- Eliminate discrimination in sentencing outcomes.
- Provide a platform for forecasting the number of offenders entering prison each year.

Michigan’s truth-in-sentencing statute mandates that offenders serve at least 100% of their minimum sentences. From that point, each offender’s actual release date is determined by the parole board.

Commission Members

No Sentencing Commission currently active.





GUIDELINES



Grid or Worksheet Structure

Felony grid, 10 offense and 6 prior record levels; misdemeanor grid, 4 offense and 3 prior record levels.

Profile

The North Carolina Sentencing and Policy Advisory Commission was created by the General Assembly in 1990 to:

- Classify criminal offenses into felony and misdemeanor categories on the basis of their severity.
- Recommend structures for use by a sentencing court in determining the most appropriate sentence to be imposed in a criminal case.
- Develop a correctional population simulation model.
- Recommend a comprehensive community corrections strategy and organizational structure for the state.
- Study and make additional policy recommendations.

The Commission's work led to the passage of the Structured Sentencing Act, which established truth in sentencing and prescribed sentencing options for judges based on the severity of the crime and the offender's prior record.

Continuum Criteria

Is there an enforceable rule related to guideline use?

The guidelines are classified as mandatory because they require a judge in every case to impose a sentence within the designated cell of a sentencing guidelines grid.

Is the completion of a worksheet or structured scoring form required?

The district attorney completes the prior record form; the judge is required to complete the sentencing judgment form.

Does a Sentencing Commission regularly report on guideline compliance?

The Sentencing Commission regularly issues reports examining North Carolina's sentencing practices under its system of structured sentencing.

Are compelling and substantial reasons required for departures?

The guidelines are mandatory, but judges can impose sentences based on aggravating or mitigating circumstances.

Are written reasons required for departures?

Written justification is required if the court selects a minimum sentence from the aggravated or mitigated sentence range.

Is there appellate review of defendant-based challenges related to sentencing guidelines?

The defendant may appeal a sentence that results from aggravating or mitigating circumstances.

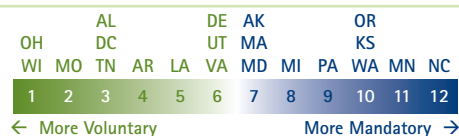
Purpose

- Sentencing policies should be rational. The sentence should be proportional to the severity of the crime as measured by the harm to the victim and to the offender's prior record.
- Sentencing policies should be truthful. The time actually served in prison or jail should bear a close and consistent relationship to the sentence imposed by the judge. Early parole release should be abolished.
- Sentencing policies should be consistent. Offenders convicted of similar offenses, who have similar prior records, should generally receive similar sentences.
- Sentencing policies should set resource priorities. Sentencing policies should be supported by adequate prison, jail, and community-based resources. The use of prisons and jails should be prioritized first for violent and repeat offenders and community-based programs should be first utilized for nonviolent offenders with little or no prior record.

30 Commission Members

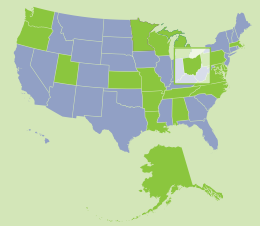
- 3 state senators
- 3 state representatives
- superior court judge
- private citizen appointed by the governor
- appointee of lieutenant governor
- appointee of Commission chair
- 1 representative from each:
 - court of appeals
 - conference of superior court judges
 - association of clerks of superior court
 - district court judges' association
 - department of correction
 - department of juvenile justice and delinquency prevention
 - dept. of crime control and public safety
 - post-release supervision and parole commission
 - attorney general's office
 - conference of district attorneys
 - bar association
 - academy of trial lawyers
 - community sentencing association
 - justice fellowship
 - association of chiefs of police
 - sheriffs' association
 - victim assistance network
 - association of county commissioners
 - retail merchants' association
 - Fayetteville State University

A Continuum of State Sentencing Guideline Systems



SCORE
12

The Commission typically meets on a monthly basis. It employs 8 staff members.



GUIDELINES

Grid or Worksheet Structure

Single grid, 5 offense levels.

Profile

In 1990, the General Assembly created the Ohio Criminal Sentencing Commission to:

- Study Ohio’s criminal laws, sentencing patterns, and juvenile offender dispositions.
• Recommend comprehensive plans to the General Assembly that encourage public safety, proportionality, uniformity, certainty, judicial discretion, deterrence, fairness, simplification, more sentencing options, victims’ rights, and other reasonable goals.
• Review correctional resources and make cost-effective proposals.
• Monitor changes and periodically report on their impact to the General Assembly.
• Review related bills introduced in the General Assembly and study sentencing and dispositions in other states.

Continuum Criteria

Is there an enforceable rule related to guideline use?

Although its guidelines were previously more mandatory, Ohio has begun to move towards an advisory sentencing system.

Is the completion of a worksheet or structured scoring form required?

Judges are not required to complete guideline worksheets.

Does a Sentencing Commission regularly report on guideline compliance?

Ohio reports no statewide data regarding sentencing patterns or practices.

Are compelling and substantial reasons required for departures?

Judges are allowed to depart from the guidelines. Substantial and compelling reasons for departure are not required.

Are written reasons required for departures?

Reasons for departure are no longer required.

Is there appellate review of defendant-based challenges related to sentencing guidelines?

Sentencing departures are not subject to appeal.

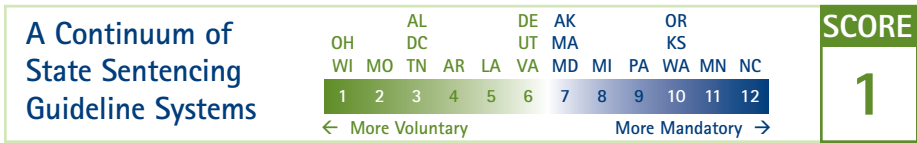
Purpose

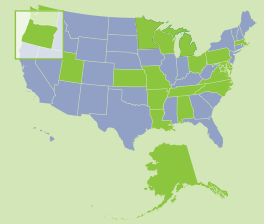
The sentencing guidelines are designed to punish the offender and protect the public from future crime by the offender and others by always considering the need for incapacitation, deterrence, rehabilitation, and restitution. Sentencing should be commensurate with, and not demeaning to, the seriousness of offender’s conduct and its impact on the victim and consistent with sentences for similar crimes by similar offenders. Sentencing should not be based on the offender’s race, ethnicity, gender, or religion.

31 Commission Members

- the chief justice
• 1 appellate court judge
• 3 common pleas court judges
• 3 municipal court judges
• 3 juvenile court judges
• 2 senators
• 2 members of the house of representatives
• the director of rehabilitation and correction
• the director of youth services
• 1 prosecuting attorney
• 1 municipal prosecuting attorney
• 1 juvenile prosecuting attorney
• 1 public defender
• 2 defense attorneys
• a state bar representative
• the highway patrol superintendent
• 1 sheriff
• 2 law enforcement officers
• 1 county commissioner
• 1 municipal representative
• 1 victim representative

The Commission employs 1 staff member.





GUIDELINES



Grid or
Worksheet
Structure

Felony grid, 11 offense and
9 prior record levels.

Profile

The Oregon Criminal Justice Commission is charged with developing a long-range public safety plan for Oregon, which includes making recommendations on the capacity and use of state prisons and local jails, implementation of community corrections programs, and methods to reduce future criminal conduct. The Commission has a role in funding and evaluating Oregon's drug courts. It also conducts research, develops impact estimates for crime-related legislation, acts as a statistical and data clearinghouse, administers Oregon's felony sentencing guidelines, and provides staff to the advisory committees regarding asset forfeiture and racial profiling.

Continuum Criteria

Is there an enforceable rule related to guideline use?

The statute indicates that the guidelines are mandatory.

Is the completion of a worksheet or structured scoring form required?

Judges are required to complete guideline worksheets.

Does a Sentencing Commission regularly report on guideline compliance?

The Commission has studied guideline compliance and departure rates.

Are compelling and substantial reasons required for departures?

A judge must impose the sentence prescribed on the classification grid unless there are substantial and compelling reasons for departure.

Are written reasons required for departures?

In the case of a departure, the judge must state on the record the reasons for the departure.

Is there appellate review of defendant-based challenges related to sentencing guidelines?

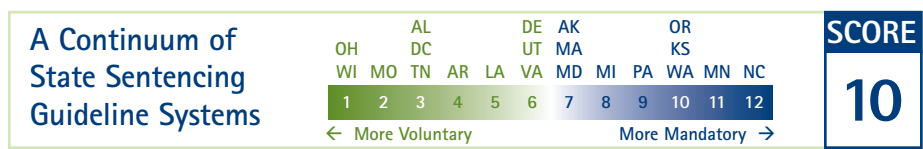
A defendant may appeal a sentence departure.

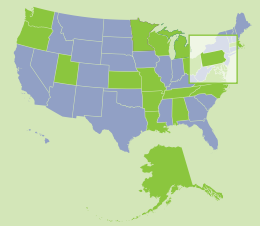
Purpose

The primary objectives of sentencing are to punish each offender appropriately and to ensure the security of the people in person and property within the limits of correctional resources provided by the Legislative Assembly, local governments, and the people. Sentencing guidelines are intended to forward these objectives by defining presumptive punishments for felony convictions, subject to judicial discretion to deviate for substantial and compelling reasons; and presumptive punishments for post-prison or probation supervision violations, also subject to deviation.

**9 Commission Members
(7 Voting, 2 Non-Voting)**

- 7 appointees of the governor
- 1 state senator (non-voting)
- 1 member of the house of representatives (non-voting)





GUIDELINES



Grid or Worksheet Structure

Single grid, 14 offense and 8 prior record levels.

Profile

The Pennsylvania Commission on Sentencing was created by the General Assembly in 1978 for the primary purpose of creating a consistent and rational statewide sentencing policy that would increase sentencing severity for serious crimes and promote fairer and more uniform sentencing practices.

Continuum Criteria

Is there an enforceable rule related to guideline use?

Language does not indicate that the guidelines are mandatory.

Is the completion of a worksheet or structured scoring form required?

The district attorney completes a prior record form; the judge is required to complete a sentencing judgment form.

Does a Sentencing Commission regularly report on guideline compliance?

Sentencing data are used to measure conformity with the guidelines.

Are compelling and substantial reasons required for departures?

When certain conditions are present, a judge may impose an aggravated or mitigated sentence.

Are written reasons required for departures?

A judge must state both on the record and on the Guideline Sentence Form the reasons for imposing an aggravated or mitigated sentence.

Is there appellate review of defendant-based challenges related to sentencing guidelines?

Defense can appeal based on the fact that a judge “departed from the guidelines and imposed an unreasonable sentence” (the state can also appeal).

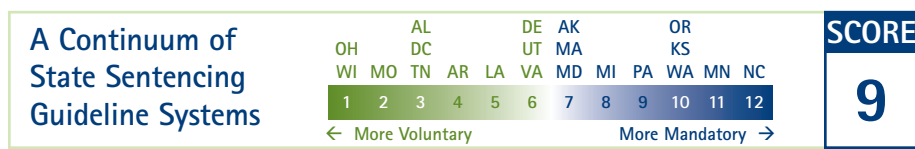
Purpose

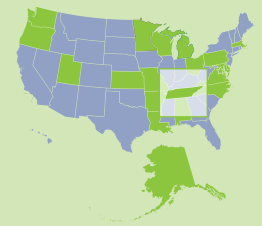
The guidelines were intended to promote sentencing equity and fairness by providing every judge with a common reference point for sentencing similar offenders convicted of similar crimes.

11 Commission Members

- 4 judges of courts of record selected by the chief justice of the supreme court
- 2 senators
- 2 members of the house of representatives
- 1 district attorney
- 1 defense attorney
- 1 law professor or criminologist

The Commission employs 18 staff members.





GUIDELINES

Grid or
Worksheet
Structure

Single grid, 5 offense
and 5 prior record levels.

Profile

The Criminal Sentencing Reform Act of 2005 created the Task Force on the Use of Enhancement Factors in Criminal Sentencing. The addition of advisory guidelines was established by the Reform Act. The Task Force also recommended statute changes to remedy constitutional issues related to *Blakely*. The Task Force was further charged with monitoring the impact of the 2005 Reform Act on Tennessee's criminal justice system.

Continuum Criteria

Is there an enforceable rule related to guideline use?

The statute states that the court shall consider, but is not bound by, the advisory sentencing guidelines.

Is the completion of a worksheet or structured scoring form required?

A uniform judgment document containing sentencing information must be completed.

Does a Sentencing Commission regularly report on guideline compliance?

No information is readily available pertaining to studies on guideline compliance.

Are compelling and substantial reasons required for departures?

The judge is directed to impose a sentence within the given range of punishment but may depart based on aggravating or mitigating factors.

Are written reasons required for departures?

The judge must state on the record or in writing the aggravating or mitigating factors considered, along with any other reasons for the imposed sentence.

Is there appellate review of defendant-based challenges related to sentencing guidelines?

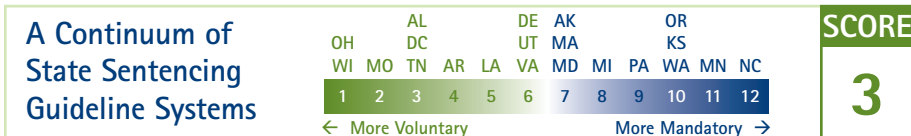
A defendant may not appeal a departure from the sentencing guidelines. A defendant may appeal an excessive sentence but must rebut the presumption that the trial court's sentence was correct.

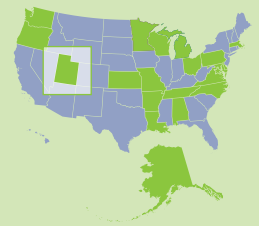
Purpose

Sentencing structure in Tennessee is based on five felony classes and five defendant type categories; each is assigned a sentencing range increasing in duration with offense severity and criminal history. The presumption for most sentences is the minimum of each range; however, sentences for felony Class A offenses begin at the midpoint of the range and are reduced or increased depending on mitigating or enhancing factors. Sentence alternatives to incarceration are also encouraged in the 2005 Reform Act.

Commission Members

No Sentencing Commission currently active.





GUIDELINES

Grid or
Worksheet
Structure

Single grid, 11 offense and
5 prior record levels.

Profile

The Utah Sentencing Commission is responsible for developing sentencing guidelines for adult and juvenile offenders and for proposing recommendations to all three branches of government regarding the sentencing and release of adult and juvenile offenders. The primary purposes of sentencing are to punish the offender, protect and compensate the victim and society, and reduce the likelihood of future crimes by the offender through rehabilitation or incapacitation.

Continuum Criteria

Is there an enforceable rule related to guideline use?

Language does not indicate that the guidelines are mandatory.

Is the completion of a worksheet or structured scoring form required?

Guideline forms must be completed by the probation department.

Does a Sentencing Commission regularly report on guideline compliance?

Utah periodically examines guideline compliance.

Are compelling and substantial reasons required for departures?

Departures based on aggravating or mitigating circumstances are allowed.

Are written reasons required for departures?

Any aggravating or mitigating circumstances used to justify a sentencing departure should be stated in open court and included on the judgment and commitment order.

Is there appellate review of defendant-based challenges related to sentencing guidelines?

A defendant may not appeal a sentence departure.

Purpose

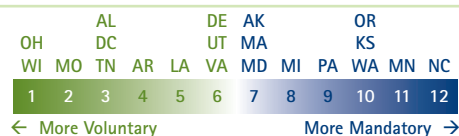
The goal of the guidelines is to bring more objectivity to the sentencing and release process, yet also allow the court or the Board of Pardons and Parole discretion in considering aggravating and mitigating circumstances. The guidelines provide for consideration of the following factors:

- Severity of the offense.
- Utah penal statutes.
- Crime history and risk to society.
- Prosecutorial, judicial, and parole board discretion.
- Continuum of sanctions.

27 Commission Members

- 1 representative of the court of appeals
- 2 district court judges
- 2 juvenile court judges
- 2 senators
- 2 members of the house of representatives
- 1 representative of the commission of criminal and juvenile justice
- 1 representative of the department of corrections
- 1 representative of the board of pardons and parole
- 1 representative of the department of adult treatment
- 1 representative of the youth parole authority
- 1 representative of juvenile justice services
- 1 representative of the department of juvenile treatment
- 1 representative of the attorney general's office
- 1 representative of the statewide association of prosecutors
- 1 juvenile prosecutor
- 2 representatives of the bar
- 1 representative of the Salt Lake legal defenders
- 1 representative of the police chiefs' association
- 1 representative of the sheriffs' association
- 1 victim representative
- 1 ethnic representative
- 1 citizen representative

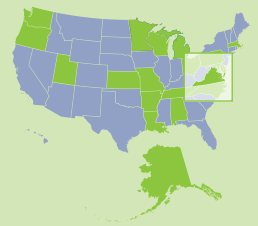
A Continuum of State Sentencing Guideline Systems



SCORE

6

The Commission meets approximately 6 times per year. It employs 1 staff member.



GUIDELINES



Grid or Worksheet Structure 15 felony offense and criminal history worksheets; probation revocation, risk assessment, and sex offender worksheets.

Profile

The current guidelines structure was adopted when legislation was passed in 1995 to abolish parole and institute truth in sentencing in Virginia. The General Assembly revised discretionary sentencing guidelines and directed the Commission to establish a system which emphasizes accountability of the offender and of the criminal justice system to the citizens of the Commonwealth. The methodological approach used by the Commission for developing Virginia’s historically based sentencing guidelines heavily reflects input from the judiciary.

Continuum Criteria

Is there an enforceable rule related to guideline use?

The Virginia Code specifically states that the guidelines are discretionary.

Is the completion of a worksheet or structured scoring form required?

While compliance with guideline recommendations is voluntary, completion of guideline worksheets is mandatory.

Does a Sentencing Commission regularly report on guideline compliance?

Each annual report provides a comprehensive examination of judicial compliance.

Are compelling and substantial reasons required for departures?

Judges are to be given the appropriate sentencing guideline worksheets and should “review and consider the suitability of the applicable discretionary sentencing guidelines.”

Are written reasons required for departures?

If the court sentences outside of the guidelines recommendation, it provides a written explanation for the departure.

Is there appellate review of defendant-based challenges related to sentencing guidelines?

A defendant may not appeal a sentence departure.

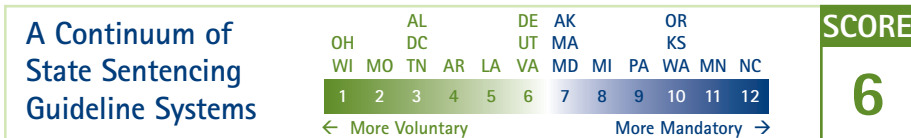
Purpose

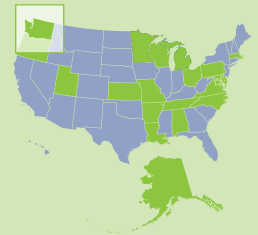
The Commission develops discretionary sentencing guidelines to achieve the goals of certainty, consistency, and adequacy of punishment with due regard to the seriousness of the offense, the dangerousness of the offender, deterrence of individuals from committing criminal offenses and the use of alternative sanctions where appropriate.

17 Commission Members

- a chair who is not an active member of the judiciary, appointed by the chief justice of the supreme court
- 6 judges or justices
- 1 member of the senate committee for courts of justice
- 1 appointee of the senate committee on rules
- 1 member of the house committee for courts of justice
- 2 appointees of the speaker of the house of delegates
- the attorney general
- 4 appointees of the governor, at least 1 of whom is a victim of crime or the representative of a victims’ organization

The Commission meets on a quarterly basis and at such other times as the chair determines. The Commission employs 8 staff members.





GUIDELINES



Grid or
Worksheet
Structure

Single grid, 15 offense and
10 prior record levels.

Profile

The Sentencing Guidelines Commission derives its authority from the Sentencing Reform Act of 1981 (SRA), which directs the Commission to evaluate and monitor adult and juvenile sentencing policies and practices and to recommend modifications to the Governor and the Legislature. The Commission also serves as a clearinghouse and information center on adult and juvenile sentencing. Pursuant to its statutory authority, the Sentencing Guidelines Commission is engaged in the following activities:

- Producing Adult Sentencing Guidelines Manual each fiscal year.
- Producing Juvenile Disposition Manual each fiscal year.
- Producing Report on Judicial Sentencing Practices each calendar year.
- Evaluating the state of juvenile disposition policy and practice in the wake of fundamental reforms.
- Conducting ongoing research on recidivism, disparities in sentencing, prison and jail capacity, deterrence, drug policy, sentence enhancements for weapon-related crimes, and the general state of adult sentencing policy and practice.

Continuum Criteria

Is there an enforceable rule related to guideline use?

The system “does not eliminate ... discretionary decisions affecting sentences.”

Is the completion of a worksheet or structured scoring form required?

Judges are not required to complete sentencing worksheets.

Does a Sentencing Commission regularly report on guideline compliance?

There are statistical summaries of adult felony sentencing beginning with 1999. These summaries examine the effect that sentencing departures have on sentencing.

Are compelling and substantial reasons required for departures?

Judges may depart from the presumptive sentence range based upon “substantial and compelling reasons justifying an exceptional sentence.”

Are written reasons required for departures?

Reasons for departure must be explained in writing.

Is there appellate review of defendant-based challenges related to sentencing guidelines?

A defendant may appeal a sentence departure (the state may also appeal).

Purpose

The SRA established the following goals for felony sentencing to:

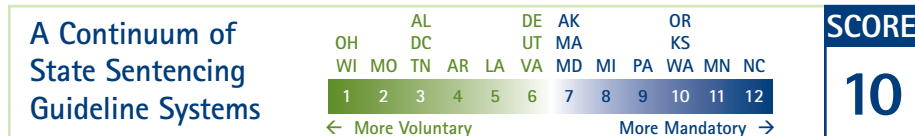
- Ensure that the punishment for a criminal offense is proportionate to the seriousness of the offense and the offender’s criminal history.
- Promote respect for the law by providing punishment which is just.
- Ensure that the punishment imposed on any offender is commensurate with the punishment imposed on others committing similar offenses.
- Protect the public.
- Offer the offender an opportunity to improve him or herself.
- Make frugal use of the state’s and local governments’ resources.
- Reduce the risk of re-offending by offenders in the community.

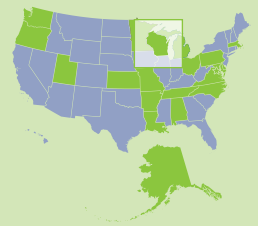
The sentencing guidelines system is designed to ensure that offenders who commit similar crimes and have similar criminal histories receive equivalent sentences.

24 Commission Members (20 Voting, 4 Non-Voting)

- 4 superior court judges
- 1 juvenile court administrator
- the secretary of corrections
- the assistant secretary of the department of social and health services, juvenile rehabilitation administration
- the chair of the indeterminate sentence review board
- the director of the office of financial management
- 2 county prosecuting attorneys
- 2 defense attorneys
- 1 sheriff or police chief
- 1 elected county official
- 1 elected city official
- 4 citizens, including one victims’ advocate
- 4 legislators representing both houses and both political parties (non-voting)

The Commission typically meets on a monthly basis. It employs 9 staff members.





GUIDELINES



Grid or Worksheet Structure

Separate worksheets for 11 offense categories.

Profile

The Wisconsin Sentencing Commission and its statutory provisions were eliminated during the 2007-2009 budget cycle. Neither the Commission nor any other agency will continue to collect and analyze sentencing guidelines worksheets. Sentencing courts are still required to consider the guidelines, but will not need to complete or submit guidelines worksheets.

Continuum Criteria

Is there an enforceable rule related to guideline use?

The guidelines are advisory; the code notes that judges are required to consider the sentencing guidelines but not to follow the guideline recommendation.

Is the completion of a worksheet or structured scoring form required?

Judges are not required to complete sentencing worksheets.

Does a Sentencing Commission regularly report on guideline compliance?

The Commission does not monitor sentencing guideline compliance.

Are compelling and substantial reasons required for departures?

Judges are free to deviate from the recommended sentence as they see fit.

Are written reasons required for departures?

Judges are not required to give any reasons for departure.

Is there appellate review of defendant-based challenges related to sentencing guidelines?

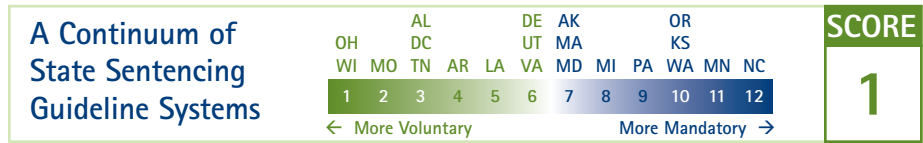
A defendant may not appeal a sentence departure.

Purpose

The latest language found articulating the intentions of the guidelines dates back to 1999. Committee members chose to emphasize the concerns of the legislature—proportionality and fairness, as well as “predictability” for the purpose of projecting costs were to share priority with public safety and the preservation of discretion and individualized.

Commission Members

No Sentencing Commission currently active.



State Sentencing Guidelines

Profiles and Continuum

The National Center for State Courts is an independent, nonprofit, tax-exempt organization in accordance with Section 501 (c)(3) of the Internal Revenue code.

The National Center for State Courts is headquartered in Williamsburg, VA, with offices in Denver, CO, and Arlington, VA.



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