



Sentencing Guidelines for Circuit Courts

AGENCY: Maryland State Commission on Criminal Sentencing Policy (MSCCSP)

ACTION: Notice of public hearing

SUMMARY: Pursuant to Section 6-208 of the Criminal Procedure Article, Annotated Code of Maryland, and the bylaws of the Maryland State Commission on Criminal Sentencing Policy (MSCCSP), the MSCCSP voted to amend the juvenile delinquency score component of the offender score, including the adoption of a new juvenile scoring system. This notice sets forth the amendment and a synopsis of the issues addressed by the amendment. The amendment and issues for comment in this notice are as follows: clarifying the instructions for the juvenile delinquency score in the Maryland Sentencing Guidelines Manual (MSGM) and COMAR, adopting a five-year lookback window, and adopting a new juvenile scoring system.

DATES: The MSCCSP will accept written public comment regarding the revised juvenile delinquency score instructions and any other sentencing policy issues if received by no later than close of business (4:30 pm) on **December 8, 2017**. The MSCCSP will hold a public hearing regarding the amendment and any other criminal sentencing policy issues. The public hearing will begin promptly at 5:30 pm on Monday, December 11, 2017, in the Judiciary Committee Room (Room 100) of the House of Delegates Office Building, 6 Bladen Street, Annapolis, Maryland 21401. Further information regarding the public hearing, including requirements for testifying and providing written comment, is available on the MSCCSP's website at

<http://www.msccsp.org/About/Meetings.aspx>.

Maryland State Commission on Criminal Sentencing Policy



ADDRESS: Please send written public comment to the MSCCSP by electronic mail or postal mail. The email address for public comment is dsoule@umd.edu. The postal mail address for public comment is Maryland State Commission on Criminal Sentencing Policy, 4511 Knox Road, Suite 309, College Park, MD 20742-8660.

FOR FURTHER INFORMATION CONTACT: David Soulé, Executive Director,
(301) 403-4165, dsoule@umd.edu.

SUPPLEMENTARY INFORMATION: The MSCCSP is an independent agency in the executive branch of Maryland's state government. The MSCCSP promulgates sentencing guidelines for use in Maryland circuit courts, pursuant to Sections 6-208 and 6-211 of the Criminal Procedure Article. The MSCCSP monitors circuit court sentencing practices and, when necessary, adopts changes to the guidelines consistent with sentencing practice and/or legislative intent, pursuant to Section 6-210 of the Criminal Procedure Article. Additional information pertaining to the proposed amendment described in this notice and the Commission's mission is available at the MSCCSP's website at www.msccsp.org.

David A. Soulé
Executive Director



Juvenile Delinquency Score Amendment

Synopsis of Proposed Amendment: After concerns raised during a previous public comments hearing regarding the definition of commitment and perceived disparities across the state in scoring the juvenile delinquency component of the offender score, the MSCCSP collaborated with the Maryland Data Analysis Center (MDAC) to study the juvenile delinquency score. The MDAC analyses revealed disparities across jurisdictions and by the juvenile's race in the effect of the juvenile score on the sentencing outcome. The MDAC's analysis also concluded that practitioners and jurisdictions varied in their interpretation of the juvenile delinquency scoring instructions. Based on the findings and recommendations from the MDAC's analysis, the MSCCSP voted to revise the instructions for the juvenile delinquency score in the Maryland Sentencing Guidelines Manual (MSGM) and COMAR, to achieve greater clarity and consistent and application, adopt a five-year lookback window, and to adopt an alternative juvenile scoring system.

Additionally, the MSCCSP adopted a five-year lookback window for calculating a defendant's juvenile delinquency score to clarify that when calculating a juvenile delinquency score, findings of a delinquent act may only be included in the juvenile delinquency score if said delinquent act occurred within the five-years prior to the date of the instant offense.

Finally, pursuant to Section 6-208 of the Maryland Code's Criminal Procedure Article, the MSCCSP, voted to adopt an alternative juvenile scoring system. The MSCCSP considered numerous alternative scoring systems. The Commission considered three important factors: adult recidivism (does the alternative scoring system predict adult recidivism); distribution (does the



alternative scoring system identify distinct categories of risk for adult recidivism); and disparity (does the new scoring system result in a disparity, racial or otherwise).

The new scoring system counts only findings of delinquent acts, thus removing the disparities concerning the interpretation of the definition of a juvenile commitment. The new scoring system also performs better than the current system in terms of differentiating offenders with different juvenile scores by their risk of recidivating as adults. The MDAC's research indicated there was an association between the number of juvenile adjudications and an increased risk of recidivism. The new scoring system better predicts adult recidivism, particularly differentiating between the risk of recidivism among medium-and high-risk offenders. Further, the new scoring system also eliminates racial disparities previously identified under the current juvenile scoring system. Throughout Commission meetings in 2016 and 2017, the MDAC research team presented results from the juvenile score project study to the Commission. At its September 2017 meeting, the Commissioners extensively discussed the merits and the disadvantages to the new scoring system. At the conclusion of the meeting, the Commission voted to adopt the new scoring system. Minutes from the previous meetings, except the September 2017 meeting (which have yet to be reviewed and adopted), are available at <http://www.msccsp.org/About/Minutes.aspx>.

The MSCCSP seeks public comment specifically on the clarifications of the juvenile scoring system, the adoption of the five-year lookback window, and the adoption of the new juvenile scoring system.



Comparison of Current Juvenile Score and Newly Adopted Juvenile Score

| Current Juvenile Score | Newly Adopted Juvenile Score |
|---|---|
| 0= 23 years or older by the date of offense; OR crime free for 5 years since the last finding of a delinquent act or last adjudication; OR no more than 1 finding of a delinquent act | 0= 23 years or older by the date of offense; OR 0 findings of a delinquent act within 5 years of the date of the most instant offense |
| 1= Younger than 23 years AND 2 or more findings of a delinquent act or 1 commitment | 1= Younger than 23 years AND 1 or 2 findings of a delinquent act within 5 years of the date of the most instant offense |
| 2= Younger than 23 years AND 2 or more commitments | 2 = Younger than 23 years AND 3 or more findings of a delinquent act within 5 years of the date of the most instant offense |