

**GUIDELINES
E-NEWS**



Vol. 2, No. 1 - February 2007



**Revisions to the Guidelines Offense Table
(Effective February 1, 2007)**

The Maryland State Commission on Criminal Sentencing Policy (MSCCSP) has revised the Guidelines Offense Table to reflect: (1) new offenses passed during the General Assembly Special Session 2006 and (2) changes to the seriousness categories for select offenses. These changes were submitted to the Code of Maryland Regulations (COMAR) and were adopted **effective February 1, 2007**. A print friendly version of the updated Guidelines Offense Table (Appendix A of the Maryland Sentencing Guidelines Manual) is available on the MSCCSP website at: www.msccsp.org/guidelines/offensetable.pdf

New Offenses

The following new offenses and their respective adopted seriousness categories were added to the Guidelines Offense Table in response to legislation passed by the General Assembly (2006 Special Session, House Bill 2):

Statute	Offense	Seriousness Category
CR, §3-303(c)(4)(i)	Rape, 1 st degree, adult offender with victim under age 13	I
CR, §3-304(c)(2)(i)	Rape, 2 nd degree, adult offender with victim under age 13	II
CR, §3-305(c)(4)(i)	Sex offense, 1 st degree, adult offender with victim under age 13	I
CR, §3-306(c)(2)(i)	Sex offense, 2 nd degree, adult offender with victim under age 13	II
CP, §11-721(b)(1)	Sex offender registration, failing to register and/or providing false information, 1 st offense	VI
CP, §11-721(b)(2)	Sex offender registration, failing to register and/or providing false information, subsequent offense	V
CP, §11-722(d)	Violation of restriction barring sex offender from specified locations where children gather	V

Seriousness Category Changes

In an effort to support uniformity in sentencing and maintain consistency among classified offenses, the MSCCSP identified several offenses that were not currently assigned a seriousness category consistent with those for “similar” offenses with “like” maximum penalties. Accordingly, the MSCCSP adopted changes to the seriousness categories for the following offenses:

Statute	Offense	Prior Seriousness Category	New Seriousness Category
CR, §3-307(a)(1) ^a	Sex offense, 3 rd degree: use of dangerous weapon; suffocate, strangle, disfigure, or inflict serious injury; threaten death, suffocation, strangulation, disfigurement, serious physical injury, or kidnapping; or while aided and abetted by another <i>(see discussion on next page)</i>	V	IV
CR, §3-307(a)(2) ^a	Sex offense, 3 rd degree: with mentally defective, mentally incapacitated, or physically helpless individual <i>(see discussion on next page)</i>	V	IV
CR, §3-321	Sodomy	V	IV
CR, §3-315	Continuing course of conduct which includes 3 or more acts involving 1 st or 2 nd degree rape or 1 st , 2 nd , or 3 rd degree sex offense over a period of 90 days or more with a victim younger than 14 years old	III	II
CR, §3-323	Incest	V	IV
CR, §3-324	Sexual solicitation of a minor	V	IV
CR, §3-602	Child Abuse, sexual	III	II
CR, §3-601(b)(2)(i)	Child Abuse, physical, 1 st degree	III	II
CR, §8-504(b)	Fraudulent statement in application for public assistance	V	IV

^a CR, §§3-307(a)(3)-(a)(5) or the “age-based” elements for sex offense, 3rd degree, remain as a category V offense.

Sex Offense, 3rd Degree

Prior to February 1, 2007, all 3rd degree sex offenses were assigned a seriousness category of V. As noted in the preceding table, effective February 1, 2007, the seriousness category for 3rd degree sex offense (CR, §3-307) is dependent on the elements of the offense. More specifically, violations of CR, §§3-307(a)(1)-(a)(2) are assigned a seriousness category of IV while violations of CR, §§3-307(a)(3)-(a)(5) are assigned a seriousness category of V.

Sex Offense 3rd Degree – Seriousness Category IV

- CR, §3-307(a)(1) - sexual contact without the consent of the other; and use of dangerous weapon; suffocate, strangle, disfigure, or inflict serious injury; threaten death, suffocation, strangulation, disfigurement, serious physical injury, or kidnapping; or while aided and abetted by another
- CR, §3-307(a)(2) - sexual contact with mentally defective, mentally incapacitated, or physically helpless individual

Sex Offense 3rd Degree – Seriousness Category V

- CR, §3-307(a)(3) – sexual contact with victim under the age of 14 years, and the person performing the sexual contact is at least 4 years older than the victim
- CR, §3-307(a)(4) – sexual act with victim 14 or 15 years old, and the person performing the sexual act is at least 21 years old
- CR, §3-307(a)(5) – vaginal intercourse with victim 14 or 15 years old, and the person performing the sexual act is at least 21 years old

When completing the Maryland Sentencing Guidelines Worksheet for 3rd degree sex offense, it is imperative that the individual completing the worksheet record the appropriate seriousness category (IV or V) as well as the complete statutory reference (CR, §3-307(a)(1)-(a)(5)). The following page contains a sample worksheet for an offender convicted of:

- (1) 3rd degree sex offense - sexual contact with mentally defective, mentally incapacitated, or physically hapless individual; and
- (2) 3rd degree sex offense - sexual act with victim 14 or 15 years old, and the person performing the sexual act is at least 21 years old.

MARYLAND SENTENCING GUIDELINES WORKSHEET

OFFENDER NAME (Last, First, Middle)		SEX __ Male __ Female	BIRTHDATE 	JURISDICTION
PSI __ Yes __ No	DATE OF OFFENSE 	DATE OF SENTENCING 	DISPOSITION TYPE __ ABA plea agreement __ Jury trial __ Non-ABA plea agreement __ Reconsideration __ Plea, no agreement __ Review __ Court trial __ Probation Revocation	
AT THIS SENTENCING, NUMBER OF:	CONVICTED OFFENSES 	CRIMINAL EVENTS 	WORKSHEET # _____ OF _____ CRIMINAL EVENT # _____	REPRESENTATION __ Private __ Public Defender __ Court Appointed __ Self
ETHNICITY Hispanic/Latino Origin __ Yes __ No		RACE __ Unidentifiable __ Black __ Asian __ White __ Other __ Native Hawaiian/Pacific Islander __ American Indian/Alaskan Native		
INDIGENCE ESTABLISHED __ Yes __ No				

CONVICTED OFFENSE TITLE	I-VII	CJIS CODE	MD CODE, ART, & SECTION	STAT. MAX	MAND. MIN	CASE #/DOCKET #
1 st Convicted Offense SEX OFFENSE, 3RD DEGREE	IV	3-3600	CR, §3-307(a)(2)	10Y		123456789
2 nd Convicted Offense SEX OFFENSE, 3RD DEGREE	V	3-3600	CR, §3-307(a)(4)	10Y		123456789
3 rd Convicted Offense						

OFFENSE SCORE(S) – Offense Against a Person Only	OFFENDER SCORE	GUIDELINES RANGE	ACTUAL SENTENCE - Imposed, Suspended, Time Served, Probation, Restitution, Fine, Corrections Options Programs (Drug Treatment Court, Break the Cycle, Etc.)
<p>1st Off 2nd Off 3rd Off A. Seriousness Category</p> <p>01 01 01 = V – VII 03 03 03 = IV 05 05 05 = III 08 08 08 = II 10 10 10 = I</p> <p>1st Off 2nd Off 3rd Off B. Victim Injury</p> <p>0 0 0 = No Injury 1 1 1 = Injury, Non-Permanent 2 2 2 = Permanent Injury or Death</p> <p>1st Off 2nd Off 3rd Off C. Weapon Usage</p> <p>0 0 0 = No Weapon 1 1 1 = Weapon Other Than Firearm 2 2 2 = Firearm or Explosive</p> <p>1st Off 2nd Off 3rd Off D. Special Victim Vulnerability</p> <p>0 0 0 = No 1 1 1 = Yes</p>	<p>A. Relationship to CJS When Instant Offense Occurred</p> <p>0 = None or Pending Cases 1 = Court or Other Criminal Justice Supervision</p> <p>B. Juvenile Delinquency</p> <p>0 = 23 years or older or crime-free for 5 years or no more than 1 finding of a delinquent act 1 = Under 23 years old and: 2 or more findings of a delinquent act or 1 commitment 2 = Under 23 years and committed 2 or more times</p> <p>C. Prior Adult Criminal Record</p> <p>0 = None 3 = Moderate 1 = Minor 5 = Major</p> <p>D. Prior Adult Parole/Prob Violation</p> <p>0 = No 1 = Yes</p>	<p>1st Con. Off.</p> <p>_____</p> <p>TO</p> <p>2nd Con. Off.</p> <p>_____</p> <p>TO</p> <p>3rd Con. Off.</p> <p>_____</p> <p>TO</p>	<p>1st Convicted Offense</p> <p>For Theft, Fraud, and Related Crimes, please indicate: <input type="checkbox"/> Economic loss \$ _____; <input type="checkbox"/> Unknown Amount Subsequent Offender Filed __ Yes __ No Restitution Requested __ Yes __ No Subsequent Offender Proven __ Yes __ No Restitution Proven __ Yes __ No</p> <p>2nd Convicted Offense</p> <p>For Theft, Fraud, and Related Crimes, please indicate: <input type="checkbox"/> Economic loss \$ _____; <input type="checkbox"/> Unknown Amount Subsequent Offender Filed __ Yes __ No Restitution Requested __ Yes __ No Subsequent Offender Proven __ Yes __ No Restitution Proven __ Yes __ No</p> <p>3rd Convicted Offense</p> <p>For Theft, Fraud, and Related Crimes, please indicate: <input type="checkbox"/> Economic loss \$ _____; <input type="checkbox"/> Unknown Amount Subsequent Offender Filed __ Yes __ No Restitution Requested __ Yes __ No Subsequent Offender Proven __ Yes __ No Restitution Proven __ Yes __ No</p>
_____ OFFENSE SCORE(S)	_____ OFFENDER SCORE	Overall Guidelines Range Multiple Counts Only	<p>Was the offender sentenced to a Corrections Options program under Commission criteria?</p> <p>Drug Court __ Yes __ No Other __ Yes __ No</p>

VICTIM INFORMATION	SENTENCE DEPARTURE INFORMATION	50% of Sentence Announced	Institutional/Parole Recommendation or Additional Information
<p>Victim __ Yes __ No</p> <p>Victim Unavailable __ Yes __ No</p> <p>NRF __ Yes __ No</p> <p>Victim Notified Plea __ Yes __ No</p> <p>Victim Notified Date __ Yes __ No</p> <p>Victim Present __ Yes __ No</p> <p>Written VIS __ Yes __ No</p> <p>Oral VIS __ Yes __ No</p> <p>No Contact with Victim __ Yes __ No</p> <p>CICB Cost Imposed __ Yes __ No</p>	<p>If the actual sentence departs from the guidelines range, please indicate the Court's reason(s) using the numerical code(s) on the list of common departure factors in the manual, if applicable.</p> <p>□ □ □</p> <p>Departure Code 9 or 18 (Please Explain):</p>	<p>_____</p> <p>TO</p> <p>_____</p> <p>50% of Sentence Announced</p> <p>__ Yes __ No</p>	<p>Worksheet Completed By _____</p> <p>Title _____</p> <p>Sentencing Judge (Please Print) _____</p> <p>Sentencing Judge's Signature _____</p>