

 GUIDELINES
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Revisions to the Instructions for Scoring Victim Injury and the Guidelines Offense Table (Effective April 1, 2009)

Revisions to the Instructions for Scoring Victim Injury

The Maryland State Commission on Criminal Sentencing Policy (MSCCSP) has revised the instructions for scoring victim injury in the calculation of the offense score for offenses against a person. As of April 1, 2009, COMAR 14.22.01.09.B(3)(a) states [new language is underlined]:

Victim injury, whether physical or psychological, shall be based on reasonable proof. Psychological injury shall be based on confirmed medical diagnosis or psychological counseling or treatment. Rape crisis hotlines, clergy conferences, and other similar services are considered psychological counseling or treatment, but the contact with a counselor must be confirmed in writing or otherwise by the counseling or treatment provider. Psychological injury is presumed not permanent unless otherwise demonstrated. Physical injury shall be more than minimal. Physical injuries such as lasting muscle damage or amputation are permanent.

The revised page 19 of the Maryland Sentencing Guidelines Manual is attached for your convenience. It may be printed and inserted in place of the affected page of your hard copy of the January 2008 Guidelines Manual.

Revisions to the Guidelines Offense Table

The MSCCSP has also revised the Guidelines Offense Table (Appendix A of the Maryland Sentencing Guidelines Manual) to reflect minor edits and the change in offense type classification of five destructive devices offenses from *property* to *person*.

These changes were submitted to the Code of Maryland Regulations (COMAR) and were adopted effective April 1, 2009. 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. Please discard any prior versions of the Guidelines Offense Table, as information contained within may no longer be accurate.

- a. The individual completing the worksheet shall consider accessory after the fact to be a seriousness category V offense if the offense has a maximum penalty of 5 years under CR, §1-301.
- b. If the accessory after the fact has a penalty of greater than 5 years under a statute other than CR, §1-301, the serious category shall be one seriousness category below the serious category of the substantive offense (e.g., a category V offense becomes a category VI offense).
- c. If the accessory after the fact has a penalty of less than 5 years, the serious category shall be the same category of the substantive offense.
- d. An accessory before the fact offense shall be one seriousness category below the substantive offense *if there was a specific verdict as to accessoryship*.

B. Victim Injury

Victim injury means physical or psychological injury to the crime victim, the cause of which is directly linked to the conduct of the defendant in the commission of the convicted offense. Victim injury, whether physical or psychological, shall be based on reasonable proof. Psychological injury shall be based on confirmed medical diagnosis or psychological counseling or treatment. Rape crisis hotlines, clergy conferences, and other similar services are considered psychological counseling or treatment, but the contact with a counselor must be confirmed in writing or otherwise by the counseling or treatment provider. Psychological injury is presumed not permanent unless otherwise demonstrated. Physical injury shall be more than minimal. Physical injuries such as lasting muscle damage or amputation are permanent.

The individual completing the worksheet shall assign a score of 0 if there was no victim injury. The individual completing the worksheet shall assign a score of 1 if victim injury occurred and the injury was not permanent. The individual completing the worksheet shall assign a score of 2 if victim injury occurred and the injury was permanent or resulted in the death of the victim.

C. Weapon Usage

Weapon usage means the use of any article or device that reasonably appears capable of causing injury or the use of an article that could result in conviction under CR, §4-101.

The individual completing the worksheet shall assign a score of 0 if no weapon was used. The individual completing the worksheet shall assign a score of 1 if a weapon other than a firearm was used. The individual completing the worksheet shall assign a score of 2 if a firearm or explosive was used.