

Revisions to the Maryland Sentencing Guidelines Corresponding to the Justice Reinvestment Act (JRA), Effective October 1, 2017

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Revisions to the Maryland Sentencing Guidelines Corresponding to the Justice Reinvestment Act (JRA)

The Maryland State Commission on Criminal Sentencing Policy (MSCCSP) voted to modify the seriousness categories for select drug, property, and person offenses with revised penalties pursuant to the Justice Reinvestment Act (JRA, Chapter 515 of the Laws of Maryland 2016) at its September 20, 2016, meeting (click [here](#) to review). The revisions will be adopted in the Code of Maryland Regulations (COMAR) **effective October 1, 2017**, coinciding with the effective date of the JRA penalty revisions, and should be used for cases sentenced on or after this date. Because guidelines are often calculated in advance of sentencing, this information is being shared with criminal justice practitioners one month prior to the effective date of the revisions.

Please note that the guidelines and offense seriousness categories in effect at the time of sentencing shall be used to calculate the defendant's sentencing guidelines, including the prior record component of the Offender Score. (Maryland Sentencing Guidelines Manual, Preface, Chapter 5.1)

Guidelines calculated in advance of sentencing may need to be recalculated if the sentencing date is postponed or moved up. Please note that pre-JRA entries for revised offenses will be removed from the Maryland Sentencing Guidelines Manual (MSGM) Offense Table effective October 1, 2017.

Additional information, including a new version of the MSGM and E-News will be distributed to practitioners and released on the MSCCSP's website on Monday, October 2, 2017, following implementation of the JRA's penalty revisions.

Guidelines Calculation Rules for Offenses with Decreased Penalties Pursuant to the JRA, Committed prior to, but Sentenced on or after, October 1, 2017

Subsequent to October 1, 2017, users completing sentencing guidelines worksheets will encounter cases where defendants are to be sentenced for offenses with revised penalties committed *prior to*, but sentenced *on or after*, October 1, 2017. Pursuant to Maryland Case Law, a defendant in the aforementioned case is subject to the statutorily-defined maximum in effect at the time he or she is sentenced (*Waker v. State of Maryland*, 2011), unless, pursuant to ex post facto laws, doing so would result in the defendant receiving a punishment harsher than that in effect at the time the offense was committed. In accordance with this law and the current sentencing guidelines rules, the MSCCSP adopted the following rule for offenses with *decreased* penalties, pursuant to the JRA, committed prior to, but sentenced on or after, October 1, 2017:

The seriousness category and statutory maximum in effect on the date of sentencing shall be used to calculate the sentencing guidelines for offenses with *decreased* penalties.

Drug and property offenses with decreased penalties pursuant to the JRA will be impacted by the adoption of this rule.

Drug Offenses

In a case involving a defendant convicted of drug possession that was committed prior to, but sentenced on or after, October 1, 2017, the user shall select the revised offense from the Offense Table and use its corresponding seriousness category and statutory maximum to calculate the sentencing guidelines.

Sample Drug Case #1

A defendant is charged with possession of cocaine on July 1, 2017. The defendant is convicted of *CDS Possession- non-marijuana (cocaine)*. The defendant is sentenced on October 10, 2017. The user calculates the defendant's sentencing guidelines based on the seriousness category and statutory maximum in effect on October 10, 2017, for the offense, *CDS Possession- non-marijuana (cocaine), 1st offense*. The defendant's guidelines are calculated based on a seriousness category VII offense with a 1-year statutory maximum.

New offense Old offense

Offense Literal	CJIS Code	Source	Felony or Misd.	Max Term	Min Term	Offense Type	Serious. Categ.	Fine
CDS and Paraphernalia Possession—unlawful possession or administering to another; etc.—non-marijuana, 1 st offense		CR, §5-601(c)(1)(i)	Misd.	1Y		Drug	VII	\$5,000
CDS and Paraphernalia Possession—unlawful possession or administering to another; etc.—non-marijuana	4-3550, etc.	CR, §5-601(c)(1); CR, §5-620(d)(1)	Misd.	4Y		Drug	V	\$25,000

Property Offenses

In a case involving a defendant convicted of a theft- or fraud-related offense that was committed prior to, but sentenced on or after, October 1, 2017, **the user shall select the closest analogous new offense and use its corresponding seriousness category and statutory maximum to calculate the sentencing guidelines.**

To select the closest analogous new theft- or fraud-related offense, the user shall select the new offense with the dollar amount thresholds closest to the old offense, unless the dollar amount involved in the theft or fraud places the offense into lower dollar amount thresholds, in which case the user shall select the new offense corresponding to the lower dollar amount thresholds.

Sample Property Case #1

A defendant commits a theft of \$15,000 on January 18, 2017. The defendant is convicted of *Felony theft, at least \$10,000 but less than \$100,000*. The defendant is sentenced on October 24, 2017. Because the dollar amount involved in the theft places the offense into lower dollar amount thresholds under the new penalty scheme, the user calculates the defendant's guidelines based on the seriousness category and statutory maximum in effect on October 24, 2017, for the offense, *Felony theft or theft scheme, at least \$1,500 but less than \$25,000*. The defendant's guidelines are calculated based on a seriousness category VI offense with a 5-year statutory maximum.

New offense Old offense

Offense Literal	CJIS Code	Source	Felony or Misd.	Max Term	Min Term	Offense Type	Serious. Categ.	Fine
Theft, Crimes Involving Felony theft or theft scheme, at least \$1,500 but less than \$25,000		CR, §7-104(g)(1)(i)	Felony	5Y		Property	VI	\$10,000
Theft, Crimes Involving Felony theft or theft scheme, at least \$10,000 but less than \$100,000	1-0623, 1-0633	CR, §7-104(g)(1)(ii)	Felony	15Y		Property	IV	\$15,000

Sample Property Case #2

Defendant commits a theft of \$30,000 on April 15, 2017. The defendant is charged with *Felony theft, at least \$10,000 but less than \$100,000*, but agrees upon a plea that reduces the convicted charge to *Felony theft, at least \$1,000 but less than \$10,000*. The defendant is sentenced on October 27, 2017. Corresponding to the dollar amount thresholds closest in value to the convicted offense, the user calculates the defendant's guidelines based on the seriousness category and statutory maximum in effect on October 27, 2017, for the offense, *Felony theft or theft scheme, at least \$1,500 but less than \$25,000*. The defendant's guidelines are calculated based on a seriousness category VI offense with a 5-year statutory maximum.

New offense Old offense

Offense Literal	CJIS Code	Source	Felony or Misd.	Max Term	Min Term	Offense Type	Serious. Categ.	Fine
Theft, Crimes Involving Felony theft or theft scheme, at least \$1,500 but less than \$25,000		CR, §7-104(g)(1)(i)	Felony	5Y		Property	VI	\$10,000
Theft, Crimes Involving Felony theft or theft scheme, at least \$1,000 but less than \$10,000	1-0622, 1-0632	CR, §7-104(g)(1)(i)	Felony	10Y		Property	V	\$10,000
Theft, Crimes Involving Felony theft or theft scheme, at least \$10,000 but less than \$100,000	1-0623, 1-0633	CR, §7-104(g)(1)(ii)	Felony	15Y		Property	IV	\$15,000

Special Considerations for MAGS Users

Because guidelines are often calculated in advance of sentencing, effective September 1, 2017, the Offense Table in MAGS will be updated to reflect revised penalties pursuant to the JRA. For users completing worksheets for defendants sentenced prior to October 1, 2017, pre-JRA offenses will remain in the Offense Table in MAGS.

MAGS users must ensure that the appropriate offense, based on the anticipated date of sentencing, is selected from the Offense Table in MAGS.

Guidelines calculated in advance of sentencing may need to be recalculated if the sentencing date is postponed or moved up.

Sample MAGS Case #1

A defendant is charged with possession of cocaine on July 1, 2017. The defendant is convicted of *CDS Possession- non-marijuana (cocaine)*. The defendant is sentenced on October 10, 2017. The user initiates the sentencing guidelines worksheet in MAGS and selects the offense, *CDS Possession- Cocaine, 1st offense (SENTENCE DATE on/after 10/1/17)*. The guidelines are calculated based on the seriousness category and statutory maximum in effect as of October 1, 2017.

New offense Old offense

	Offense	CJIS Code	Source	Type	Level	Min	Max	Seriousness Category	Fine
	Offense	CJIS Code	Source	Type	Level	Min	Max	Seriousness Category	Fine
Select	CDS Possession- Cocaine, 1 st offense (SENTENCE DATE on/after 10/1/17)		CR, §5-601(c)(1)(i)	Drug	Misd		1Y	VII	\$5,000
Select	CDS Possession- Cocaine (SENTENCE DATE prior to 10/1/17)	4-3550, etc.	CR, §5-601(c)(1); CR, §5-620(d)(1) (for paraphernalia)	Drug	Misd		4Y	V	\$25,000

Sample MAGS Case #2

Defendant commits a theft of \$15,000 on January 18, 2017. The defendant is convicted of *Felony theft, at least \$10,000 but less than \$100,000*. The defendant is sentenced on October 24, 2017. Because the dollar amount involved in the theft places the offense into lower dollar amount thresholds under the new penalty scheme, the user initiates the sentencing guidelines worksheet in MAGS and selects the offense *Felony theft or theft scheme, at least \$1,500 but less than \$25,000 (SENTENCE DATE on/after 10/1/17)*. The guidelines are calculated based on the seriousness category and statutory maximum in effect as of October 1, 2017. Prior to submitting the worksheet, the judge or judge’s designee may note in the Additional Information section of MAGS (located on the *GLS/Overall Sentence* tab) that the original convicted offense title was *Felony theft or theft scheme, at least \$10,000 but less than \$100,000*.

New offense Old offense

	Offense	CJIS Code	Source	Type	Level	Min	Max	Seriousness Category	Fine
	<input type="text" value="Offense"/>	<input type="text" value="CJIS Code"/>	<input type="text" value="Source"/>	<input type="text" value="Type"/>					
<input type="button" value="Select"/>	Felony theft or theft scheme, at least \$1,500 but less than \$25,000 (SENTENCE DATE on/after 10/1/17)		CR, §7-104(g)(1)(i)	Property	Felony		5Y	VI	\$10,000
<input type="button" value="Select"/>	Felony theft or theft scheme, at least \$10,000 but less than \$100,000 (SENTENCE DATE prior to 10/1/17)	1-0623, 1-0633	CR, §7-104(g)(1)(ii)	Property	Felony		15Y	IV	\$15,000

MAGS MARYLAND AUTOMATED GUIDELINES SYSTEM

Logged in as magibowlesse Last Name: SMITH First Name: JOHN SID: 964325 Log Off | Home | Search

Offender Information Offender Score List of Offenses Sentence **GLS/Overall Sentence** Victim Information Departure / Submit

Maryland Sentencing Guidelines Worksheet Save this page Previous Next

Sentence Overall (Across All offenses):

Total Sentence: 1 Year(s) 5 Month(s) 0 Day(s) Date of Sentencing: 10 / 24 / 2017 (MM/DD/YYYY)

Suspended: 1 Year(s) 0 Month(s) 0 Day(s) Disposition Type: 2 - Non-ABA plea agreement

Credit: 31 Day(s) Parole Notification: Please Select

Home Detention: 0 Month(s) 50% of Sentence Announced: Please Select

Jail/Prison: 0 Year(s) 5 Month(s) 0 Day(s) Community Service: Hours

Guidelines Applicable Sentence: 0.5 Year(s) Probation: 3 Year(s) 0 Month(s) 0 Day(s)

Overall Guidelines Range: P to 6M Fine (\$ amount)

Victim Court Costs Imposed: Yes

Corrections Options: 4 - None

Additional Information or Institutional / Parole Recommendation (You may enter up to 275 characters):

The original convicted offense is Felony theft, at least \$10,000 but less than \$100,000.

View worksheet PDF Save this page Previous Next

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