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

Pursuant to the JRA, the penalties for select drug, property, and person offenses have been revised, effective October 1, 2017. In accordance with these revisions, the MSCCSP voted to modify the seriousness categories for select drug, property, and person offenses, also effective October 1, 2017. Please refer [here](#) for a summary of the JRA-related changes to the sentencing guidelines and select criminal penalties. Please refer to the [September E-News \(Vol. 12 No. 1\)](#) for additional information concerning the rules for calculating the guidelines for offenses with decreased penalties pursuant to the JRA and special considerations for MAGS users.

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)

Updated Definition of Corrections Options to Include Sentences for Drug Possession with Required Substance Abuse Treatment as Guidelines-Compliant

Pursuant to the JRA, before imposing a sentence for the possession, administration, obtainment, etc. of a controlled dangerous substance (CDS) under Criminal Law Article (CR), § 5-601(c), the court may order the Department of Health (DOH) or a designee to conduct an assessment of the defendant for a substance use disorder. If a substance use disorder assessment is ordered, the court shall consider the results of the assessment when imposing a sentence under CR, § 5-601(c) and suspend the execution of the sentence, order probation and, if the assessment shows that the defendant is in need of substance abuse treatment, require the DOH or the designee to provide the medically appropriate level of treatment; or the court may impose a term of imprisonment and order the DOC or local correctional facility to facilitate the medically appropriate level of treatment. (CR, § 5-601(e)).

In light of this mandate, the MSCCSP voted to add a sentence with required substance abuse treatment, for the possession administration, obtainment, etc., of CDS to the definition of corrections options (see

below for the full definition of corrections options). This action was taken because sentences to corrections options (as defined in the MSGM) are deemed guidelines-compliant sentences, provided that certain conditions are met.¹ Therefore, judges are able to impose a guidelines-compliant sentence for drug possession cases when suspending the sentence and requiring substance abuse treatment pursuant to CR, § 5-601(e)(3), assuming the other conditions noted in footnote 1 are met.

Corrections Options (MSGM, Chapter 2)

- Home detention;
- A corrections options program established under law which requires the individual to participate in home detention, inpatient treatment, or other similar programs involving terms and conditions that constitute the equivalent of confinement;
- Inpatient drug or alcohol counseling under Health General Article (HG), Title 8, Subtitle 5, Annotated Code of Maryland;
- Participation in a drug court or HIDTA substance abuse treatment program; or
- A sentence, with required substance abuse treatment, for the possession, administration, obtainment, etc. of controlled dangerous substances (CDS) currently outlined in CR, § 5-601(c) and pursuant to CR, § 5-601(e)(3).
- Corrections options include programs established by the State Division of Correction, provided that the program meets the Commission's criteria, as described above.

When completing the sentencing guidelines worksheet for a defendant convicted of a violation of CR, § 5-601(c) and sentenced to required substance abuse treatment, pursuant to CR, § 5-601(e)(3), please mark "Yes-Other," on the worksheet in response to the question "Was the offender sentenced to a Corrections Option program under Commission criteria?" Please note in the sentence information or Additional Information section on the worksheet that the sentence was pursuant to CR, § 5-601(e)(3).

Sample Sentence to Corrections Options

A defendant is convicted of possession of cocaine (CR, § 5-601) on October 16, 2017. Pursuant to CR, § 5-601(e), the judge orders the DOH to conduct an assessment of the defendant for a substance abuse disorder. The results of the assessment indicate that the defendant has a substance abuse disorder. On December 5, 2017, the judge sentences the defendant to 12 months incarceration and, pursuant to CR, § 5-601(e), fully suspends the sentence so that the defendant may attend substance abuse treatment in the community, and orders the defendant to serve three years of probation. The judge's designee records the sentence on the guidelines worksheet and indicates that the defendant was sentenced to an "Other" corrections options (see the below sample worksheet).

The defendant's guidelines were calculated as 3M to 6M. Because the total sentence is within or above the overall guidelines range, the defendant's sentence is deemed guidelines compliant.

¹ The MSCCSP deems a sentence as guidelines compliant if a judge imposed a sentence of corrections options and the defendant's initial sentence plus any suspended sentence falls within or above the overall guidelines range and the current sentence or sentences and any pending charges do not include a violation of CR, § 14-101; CR, § 3-602; escape; or a law of the United States or of any other state or the District of Columbia similar to § C(2)(a)—(c) of COMAR 14.22.01.17.

MARYLAND SENTENCING GUIDELINES WORKSHEET				OFFENDER NAME - Last, First, Middle		SID#	SEX	BIRTHDATE	JURISDICTION	
Smith, John						1234567	<input checked="" type="checkbox"/> M <input type="checkbox"/> F	07 07 84	03	
PSI <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		DATE OF OFFENSE		DATE OF SENTENCING		DISPOSITION TYPE		REPRESENTATION		
		07 21 17		12 05 17		<input checked="" type="checkbox"/> ABA plea agreement <input type="checkbox"/> Jury trial <input type="checkbox"/> Non-ABA plea agreement <input type="checkbox"/> Reconsideration <input type="checkbox"/> Plea, no agreement <input type="checkbox"/> Review <input type="checkbox"/> Court trial		<input checked="" type="checkbox"/> Private <input type="checkbox"/> Public Defender <input type="checkbox"/> Court Appointed <input type="checkbox"/> Self		
AT THIS SENTENCING, NUMBER OF:		CONVICTED OFFENSES		CRIMINAL EVENTS		WORKSHEET # <u>1</u> OF		CRIMINAL EVENT # <u>1</u>		
1		1		1						
CONVICTED OFFENSE TITLE				I-VII	CJIS CODE	MD CODE, ART, & SECTION	STAT. MAX	MAND. MIN	CASE #/DOCKET #	
1 st Convicted Offense CDS Possession- cocaine, 1st offense				VII	--	CR, § 5-601(c)(1)(i)	12M		03K17009999	
2 nd Convicted Offense										
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, Home Detention, Etc.)		
1 st Off 2 nd Off 3 rd Off 1 1 1 = V - VII 3 3 3 = IV 5 5 5 = III 8 8 8 = II 10 10 10 = I			A. Seriousness Category 1 1 1 = V - VII 3 3 3 = IV 5 5 5 = III 8 8 8 = II 10 10 10 = I			1 st Con. Off. 3M 6M TO		1 st Convicted Offense 12 months suspended, 3 years probation Required substance abuse treatment Pursuant to CR, § 5-601(e) For Theft, Fraud, and Related Crimes, please indicate: <input type="checkbox"/> Economic loss \$ _____; <input type="checkbox"/> Unknown Amount Subsequent Offender Filed <input type="checkbox"/> Yes <input type="checkbox"/> No; Restitution Requested <input type="checkbox"/> Yes <input type="checkbox"/> No Subsequent Offender Proven <input type="checkbox"/> Yes <input type="checkbox"/> No; Restitution Proven <input type="checkbox"/> Yes <input type="checkbox"/> No		
1 st Off 2 nd Off 3 rd Off 0 0 0 = No Injury 1 1 1 = Injury, Non-Permanent 2 2 2 = Permanent Injury or Death			B. Victim Injury 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			2 nd Con. Off. TO		2 nd Convicted Offense For Theft, Fraud, and Related Crimes, please indicate: <input type="checkbox"/> Economic loss \$ _____; <input type="checkbox"/> Unknown Amount Subsequent Offender Filed <input type="checkbox"/> Yes <input type="checkbox"/> No; Restitution Requested <input type="checkbox"/> Yes <input type="checkbox"/> No Subsequent Offender Proven <input type="checkbox"/> Yes <input type="checkbox"/> No; Restitution Proven <input type="checkbox"/> Yes <input type="checkbox"/> No		
1 st Off 2 nd Off 3 rd Off 0 0 0 = No Weapon 1 1 1 = Weapon Other Than Firearm 2 2 2 = Firearm or Explosive			C. Weapon Presence 0 = None 3 = Moderate 1 = Minor 5 = Major			3 rd Con. Off. TO		3 rd Convicted Offense For Theft, Fraud, and Related Crimes, please indicate: <input type="checkbox"/> Economic loss \$ _____; <input type="checkbox"/> Unknown Amount Subsequent Offender Filed <input type="checkbox"/> Yes <input type="checkbox"/> No; Restitution Requested <input type="checkbox"/> Yes <input type="checkbox"/> No Subsequent Offender Proven <input type="checkbox"/> Yes <input type="checkbox"/> No; Restitution Proven <input type="checkbox"/> Yes <input type="checkbox"/> No		
1 st Off 2 nd Off 3 rd Off 0 0 0 = No 1 1 1 = Yes			D. Special Victim Vulnerability 0 = No 1 = Yes			Overall Guidelines Range Multiple Counts Only 3M 6M TO		Was the offender sentenced to a Corrections Options program under Commission criteria? Drug Court <input type="checkbox"/> Yes <input type="checkbox"/> No Other <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		
VICTIM INFORMATION Victim <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Victim Non-participation <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Victim Notification Form <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Victim Notified Plea <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Victim Notified Date <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Victim Present <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Written VIS <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Oral VIS <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No No Contact Requested <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No No Contact Ordered <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No			SENTENCE DEPARTURE INFORMATION 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. <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> Departure Code 9 or 18 (Please Explain): N/A			50% of Sentence Announced for COVs Yes <input type="checkbox"/> No <input type="checkbox"/>		Additional Information or Institutional/Parole Recommendation Parole Notification <input type="checkbox"/> Yes <input type="checkbox"/> No		
								Worksheet Completed By _____		
								Title _____		
								Sentencing Judge (Please Print) _____		
								Sentencing Judge's Signature _____		

COPIES: White - Judge; Blue - Sentencing Commission; Green - Attach to Commitment or Probation Order; Yellow - File; Pink - Prosecution; Gold - Defense

4/2013 (1.8)

Revised Language Concerning Sentencing Guidelines Worksheet Review

The MSCCSP voted to modify the language concerning judicial review of the sentencing guidelines worksheet at its May 9, 2017, meeting. The revised language reflects feedback from practitioners and is intended to more clearly communicate to users the role of the court in worksheet review.

Effective October 1, 2017: *Regardless of who completes the worksheet, the court shall review the worksheet to confirm that the guidelines reflected on the worksheet were considered in the respective case* (MSGM, Chapter 3.5; COMAR 14.22.01.03(F)(4)).

Release of Maryland Sentencing Guidelines Manual (MSGM), Version 9.0

In light of the JRA and corresponding revisions to the Maryland sentencing guidelines, the MSCCSP has released a new version of the MSGM (Version 9.0). This new manual includes an updated offense table, updated sample cases, an updated definition of corrections options, revised language concerning the court's review of sentencing guidelines worksheets, and minor edits and formatting changes.

Please discard previous versions of the MSGM and start using the [new manual](#) immediately.