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Clarifying the Scope of the Maryland Sentencing Guidelines

The Maryland State Commission on Criminal Sentencing Policy (MSCCSP) has clarified the scope of the sentencing guidelines to explicitly exclude from guidelines coverage cases adjudicated in a juvenile court. This clarification was made in response to questions from practitioners regarding whether the guidelines apply to cases involving an adult sentenced in juvenile court for contributing to conditions causing a child to be alleged delinquent, in need of assistance or supervision, or failure to send their child who is over the age of 5 and under the age of 16 to school. The clarifying language was adopted in the Code of Maryland Regulations (COMAR) effective March 1, 2019.

Expanding the Definition of Corrections Options

Sentences to corrections options are deemed guidelines compliant provided that the initial sentence plus any suspended sentence falls within or above the applicable guidelines range and the case does not include a crime of violence, child sexual abuse, or escape. The MSCCSP has expanded the definition of corrections options to include all problem-solving courts, work release, and weekend (or other discontinuous) incarceration. In addition, corrections options now include programs established by the Department of Public Safety and Correctional Services (DPS) and/or local correctional agencies, provided the program meets the Commission's criteria (specified below). Such programs were previously limited to those established by the State Division of Correction. Lastly, the MSCCSP agreed to remove from the definition of corrections options HIDTA substance abuse treatment programs since the existing HIDTA-funded substance abuse treatment programs in Maryland include only select drug courts, participation in which is already defined as a corrections option. Expanding the scope of alternatives to incarceration defined as "corrections options" is important because it allows a judge to impose these specific alternatives in lieu of an imprisonment sentence while remaining compliant with the sentencing guidelines.

Effective July 1, 2019, corrections options are defined as follows:

- Home detention (including a recommendation for home detention that is pending approval);
- A corrections options program established under law which requires the individual to participate in home detention, inpatient/residential 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 problem-solving court, including a drug court, mental health court, family/dependency court, veterans court, or other problem-solving court as defined by the Administrative Office of the Courts’ Office of Problem Solving Courts;
- A sentence, with required substance abuse treatment, for the possession, administration, obtainment, etc. of controlled dangerous substances (CDS) currently outlined in Criminal Law Article (CR), § 5-601(c) and pursuant to CR, § 5-601(e)(3);
- Work release (including a recommendation for work release that is pending approval); or
- Weekend (or other discontinuous) incarceration.
- Corrections options include programs established by the Department of Public Safety and Correctional Services (DPSCS) and/or local correctional agencies, if the program meets the Commission’s criteria, as described above.

Changes to the Maryland Sentencing Guidelines Worksheet

The MSCCSP has adopted several revisions to the Maryland sentencing guidelines worksheet effective July 1, 2019.

Revision #1: The first revision separates *Reconsideration* and *Review* from the disposition types.

Previously, the disposition section of the worksheet listed several plea and trial disposition types as well as *Reconsideration* and *Review*. Separating *Reconsideration* and *Review* from the other disposition types permits users to indicate both how the case was disposed (plea or trial) as well as whether or not the sentencing was a reconsideration for a crime of violence or a review.

DISPOSITION TYPE	RECONSIDERATION OR REVIEW
<input type="checkbox"/> ABA plea agreement	<input type="checkbox"/> Reconsideration (COVs only)
<input type="checkbox"/> Non-ABA plea agreement	<input type="checkbox"/> Review
<input type="checkbox"/> Plea, no agreement	<input type="checkbox"/> Neither
<input type="checkbox"/> Court trial	
<input type="checkbox"/> Jury trial	

Revision #2: The second revision to the sentencing guidelines worksheet modifies the racial categories so that they mirror those required by State Government (SG) Article, § 10-603. SG, § 10-603 specifies that forms requiring the identification of individuals by race include the following racial categories:

- American Indian or Alaska Native;
- Asian;
- Black or African American;
- Native Hawaiian or other Pacific Islander; and
- White.

While the previous worksheet’s racial categories were similar to those of SG, § 10 603, there were minor differences between the two. The revised categories are consistent with the racial categories specified in SG, § 10-603 and provide for multiracial responses.

RACE (Select all that apply)	
<input type="checkbox"/> American Indian or Alaska Native	<input type="checkbox"/> Asian
<input type="checkbox"/> Black or African American	<input type="checkbox"/> Native Hawaiian or other Pacific Islander
<input type="checkbox"/> White	<input type="checkbox"/> Unknown
<input type="checkbox"/> Other	

Revision #3: The third revision to the sentencing guidelines worksheet specifies the “other” corrections options and captures other alternatives to incarceration. Pursuant to the Justice Reinvestment Act (Senate Bill 1005/Chapter 515, Sec. 8, 2016), the MSCCSP conducted a study of alternatives to incarceration in Maryland. Its final report, *Study on Alternatives to Incarceration*, includes seven recommended actions. Recommended action #4 advises that the MSCCSP collect additional data on sentences utilizing alternatives to incarceration. Prior to July 1, 2019, the worksheet captured whether the offender’s sentence included “drug court” and/or an “other” corrections options program, but it did

not capture the nature of the “other” program. The revised worksheet specifies the “other” corrections options and also captures other alternatives to incarceration.

Was the offender sentenced to a Corrections Option under Commission criteria? Yes No
 If yes, select all that apply: Drug court HG, § 8-507 order Home detention
 Susp. sentence per CR, § 5-601(e) Inpatient substance abuse treatment Work release
 Inpatient mental health treatment Weekend (or other discontinuous) incarceration
 Other (explain): _____
 Other problem-solving court (explain): _____

Was the offender sentenced to some other alternative to incarceration? Yes No
 If yes, select all that apply:
 Outpatient substance abuse treatment Outpatient mental health treatment
 Other (explain): _____

The revised corrections options field provides the following list of options:

- Drug court;
- Other problem-solving court (specify);
- Home detention;
- Suspended sentence per CR, § 5-601(e);
- HG, § 8-507 order;
- Work release;
- Weekend or other discontinuous incarceration;
- Inpatient substance abuse treatment;
- Inpatient mental health treatment; and
- Other (explain).

Additionally, the other alternatives to incarceration field provides the following list of other alternatives:

- Outpatient substance abuse treatment,
- Outpatient mental health treatment, and
- Other (explain).

Revision #4: The fourth revision to the sentencing guidelines worksheet removes the *Subsequent Offender Filed* and *Restitution Requested* fields (note: *Subsequent Offender Proven* and *Restitution Proven* are retained). Worksheet preparers rarely complete the *Subsequent Offender Filed* and *Restitution Requested* fields, and the fields offer little analytic value. Additionally, removing these fields provides a counter-balance to the addition of items to collect more information regarding corrections options and other alternatives to incarceration.

1st Convicted Offense

For theft, fraud, and related crimes, please indicate: Economic loss \$ _____; Unknown Amount

Subsequent Offender Proven Yes No Restitution Proven Yes No

The above revisions are reflected on both the paper worksheet (version 2.0) and the Maryland Automated Guidelines System (MAGS) worksheet (version 8.0). Note that MAGS now provides a separate tab for recording corrections options, other alternatives to incarceration, community service, and fine (see screenshot below). Please refer to [What's New in MAGS 8.0](#) for a full summary of MAGS related updates. For additional details on MAGS worksheet completion, please see the [MAGS User Manual](#).

New *Alternatives to Incarceration* Tab in MAGS:

Offender Information	Offender Score	List of Offenses	Victim Information	Sentence	GLS/Overall Sentence	Alternatives to Incarceration	Departure / Submit
Maryland Sentencing Guidelines Worksheet							
<div style="display: flex; justify-content: space-between;"> Save this page Previous Next </div>							
* Was the offender sentenced to a Corrections Options program under Commission criteria? ?		Yes ▼ Select all that apply: <input checked="" type="checkbox"/> Drug Court <input type="checkbox"/> Other problem-solving court (Specify): <input type="text"/> <input type="checkbox"/> Home Detention <input type="checkbox"/> HG, § 8-507 order <input type="checkbox"/> Suspended sentence per CR, § 5-601(e) <input type="checkbox"/> Inpatient substance abuse treatment <input type="checkbox"/> Inpatient mental health treatment <input type="checkbox"/> Work Release <input type="checkbox"/> Weekend (or other discontinuous) incarceration <input type="checkbox"/> Other (explain): <input type="text"/>					
* Was the offender sentenced to some other alternative to incarceration? ?		Yes ▼ Select all that apply: <input type="checkbox"/> Outpatient substance abuse treatment <input type="checkbox"/> Outpatient mental health treatment <input checked="" type="checkbox"/> Other (explain): anger management program					
Community Service		25 Hours					
Fine (\$ amount)		150 <input type="text"/>					
<div style="display: flex; justify-content: space-between;"> View worksheet PDF Save this page Previous Next </div>							

New Maryland Sentencing Guidelines Manual

In light of the above revisions, the MSCCSP has released a new version of the Maryland Sentencing Guidelines Manual (MSGM, version 11.0). You may access a print-friendly version of the [updated MSGM](#) via the MSCCSP website. Among the changes to the new manual are updated sample cases, an expanded definition of corrections options, and minor edits and formatting changes. Please discard previous versions of the MSGM and start using the new manual immediately.