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## Permissive Consecutive Sentencing List – *Guidelines Section 6*

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MINNESOTA SENTENCING GUIDELINES COMMISSION

OCTOBER 26, 2016

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## Permissive Consecutive Sentencing List – Possible Inclusion of Interference with a Dead Body or Scene of Death

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Should Interference with a Dead Body or Scene of Death under Minn. Stat. § 609.502, subd. 1(1), be added to the list of offenses eligible for permissive consecutive sentencing?

If yes...

The Legislature must be notified of the Commission's decision; this could be accomplished by the 2017 Report to the Legislature, and would receive public hearing in July 2017.

## Permissive Consecutive Sentencing List – Why the List Went into Effect

### BLAKELY V. WASHINGTON

#### Before Blakely

- The court was not required to make any additional findings to impose consecutive sentences other than that there were multiple current convictions for a “person offense” or a prior conviction of a “person offense.”
- There was no statutory definition of a “person offense.”
- The court determined whether an offense was classified as a person offense.

#### After Blakely

- Because the term “person offense” had varying meanings in various situations, all felony offenses were reviewed and classified as eligible or ineligible for permissive consecutive sentencing.
- Inclusion on the list was based on the potential level and type of injury to victims, and previous patterns of consecutive sentencing use.
- The designation of eligible/ineligible for consecutive sentencing removes the need for the court to make that finding and adequately addresses any potential Blakely issues.

## Permissive Consecutive Sentencing List – When the List Went into Effect

*Blakely v. Washington*  
was handed down by  
the U.S. Supreme Court

June, 2004

The Commission  
recommended that all  
felony offenses be  
reviewed and classified  
as eligible or ineligible  
for permissive  
consecutive sentencing.

September, 2004

The Commission  
modified permissive  
consecutive language  
and adopted a list of  
offenses eligible for  
permissive consecutive  
sentencing - effective  
August 1, 2005.

August, 2005

## Permissive Consecutive Sentencing List – What Offenses are Included

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- Abuse/Deprivation of Vulnerable Adult
- Accidents (death or great bodily harm)
- Arson 1st Degree
- Assaults, DA, DA by Strangulation, Terr. Threats
- Burglary 1st Degree and 2nd Degree (if bank/dwelling)
- Child Neglect/Endangerment/Malicious Punishment
- Crime Committed for Benefit of Gang
- Criminal Sexual Conduct/Incest/Child Pornography
- Drive-by Shooting
- Drug Offenses (involving a minor)
- DWI/CVH/CVI
- Emergency Tel. Calls/Interfere Transit Operator
- Escape with Violence
- Fleeing Peace Officer
- Identity Theft
- Indecent Exposure
- Kidnapping/False Imprisonment
- Labor Trafficking
- Manufacture Meth
- Murder/Manslaughter
- Prostitution/Solicitation/Use of Sex with Minor
- Registration of Predatory Offenders
- Robbery
- Sex Trafficking
- Tampering with Witness
- Violate OFP/HRO/DANCO, Stalking

## Interfering with a Body or Scene of Death – Minn. Stat. § 609.502, subd. 1

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- Offense was modified (Laura's Law) by elevating the crime from a gross misdemeanor to a felony if done with intent to conceal the body.
- New subdivision 1a established the maximum penalty at 3 years in prison, a \$5,000 fine, or both.
- The Commission ranked it at Severity Level 4, effective August 1, 2016.
- **Question:** Does the Commission wish to add the offense to the list of offenses eligible for permissive consecutive sentencing, effective August 1, 2017?