CONSECUTIVE SUPERVISED RELEASE

Minnesota Sentencing Guidelines Commission

November 6, 2014
Today’s discussion

Basic options → Sentencing timing → Outstanding issues → MSGC decision
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- Basic options
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- Outstanding issues
- MSGC decision
### Proposal 1: Current DOC Practice

- 40 Month Term of Imprisonment: 20 Mo. Sup. Rel., 14 Mo. T. Imp., 7 Mo.

### Proposal 2: Current MSGC Comment

- 40 Month Term of Imprisonment: 14 Mo. T. Imp.
- Aggregate 54 Month Term of Imprisonment: 20 Mo. Sup. Rel., 7 Mo., Agg. 27 Mo. Sup. Release

### Proposal 3: Compromise

- 40 Month Term of Imprisonment: 14 Mo. T. Imp.
- Aggregate 54 Month Term of Imprisonment: 20 Mo. Sup. Rel., 7 Mo.
Questions Before the Commission

1. Does the Commission intend to change the Minnesota Sentencing Guidelines and submit Proposal 1, 2, or 3 for public comment?

2. If Proposal 2 or 3 is selected, does the Commission wish to select Timing Alternative 1 (gray), 2 (green), or neither?

3. Does the Commission wish to include the Staff Technical Changes (yellow)?

4. Does the Commission wish to include the Staff Policy Proposal (blue)?
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Questions of Timing

• Two questions arise with Proposals 2 & 3 if the first sentence and the consecutive sentence are not executed by the same judge on the same day:

1. Once Judge #1 pronounces an executed sentence, can Judge #2 later alter that sentence by decreeing that supervised release term #1 doesn’t begin until after term of imprisonment #2 is complete?

2. How can two terms of imprisonment (and supervised released terms) be “aggregated” if separated in time by intervening supervised release?
Why Timing is not an Issue for Proposal 1

- The timing of sentences is not an issue with Proposal 1.
- Under Proposal 1 (current DOC practice), supervised release terms run concurrently with terms of imprisonment, and with other supervised release terms.
- I.e., once a supervised release term starts, it continues until expiration.
- Judge #1’s sentence will never be altered by Judge #2’s sentence.
Three Sentencing Timing Options

1. Adopt Proposal 2 or 3 as written, leaving the Department of Corrections and the Courts to decide how to aggregate sentences in unusual circumstances.

2. Adopt Proposal 2 or 3 with *Timing Alternative 1* (highlighted in gray), which would aggregate consecutive sentences only if both were executed by the same judge on the same day; otherwise, current DOC practice (Proposal 1) would apply.

3. Adopt Proposal 2 or 3 with *Timing Alternative 2* (highlighted in green), which would employ current DOC practice (Proposal 1) when the offender had already begun serving supervised release on the first offense when the second sentence was executed.
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Staff Proposals

• Staff has proposed a number of technical changes, which are highlighted in yellow.
  • Staff’s intent is to clarify current policy, not to make new policy.

• Staff has proposed one policy change, highlighted in blue.
  • Eliminates presumptive consecutive sentencing for offenders who commit new offenses while on supervised or conditional release.
  • The longer of concurrent or consecutive is presumptive, but ...
  • Consecutive is never longer in these cases, unless ...
  • We ask the judge to guess as to future DOC sanctions.
Blue Proposal Illustrated:

- Assumption: While on supervised release, an offender (criminal history score 4) commits, and is sentenced for, new offense (severity level 4).

<table>
<thead>
<tr>
<th>Initial Term of Imprisonment</th>
<th>Initial Sup. Release Term</th>
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<tbody>
<tr>
<td>16 Mo. Term of Imprisonment</td>
<td>8 Mo. S.R.</td>
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<tr>
<td>5M</td>
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</tbody>
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- **Consecutive** uses criminal history score of 1: **15 months**
- **Concurrent** uses actual criminal history score of 4: **24 months**

- For supervised-release offenders, **concurrent** is longer.
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