

## Staff Information Paper

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# Summary of November Custody Status Proposals

October 15, 2021

This staff paper continues a discussion of various alternative proposals to reform how custody status contributes to the presumptive sentence. On October 7, 2021, after the Commission’s review and discussion of seven custody status proposals, the Chair identified three proposals to bring before the Commission at the November meeting. This paper recaps those three proposals.

## 1. Display half points on grids

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Retain custody status as a factor in the calculation of criminal history—leaving the 2019 custody-status modifications unchanged—but alter the sentencing grids to establish presumptive sentences for criminal history scores that contain partial points. Between each pair of neighboring columns on the existing sentencing grids, add a new column for criminal history scores ending in “½.” Each new cell’s presumptive duration is the average (rounded down) of the presumptive durations of its neighboring whole-point cells. Its presumptive disposition is that of its neighboring cell to the left. Presumptive ranges are calculated consistent with current methodology.

## 2. Repeal custody-status policy without replacement

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Eliminate custody status from the calculation of the presumptive sentence by repealing the existing custody-status policy, without replacement.

## 3. Replace custody-status policy with a one-cell aggravating factor

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Repeal the existing custody-status policy and replace it with a factor that may—but is not required to—be used as a reason for an aggravated departure: That the crime was committed while in a custody status, defined consistent with current policy. Add the proviso that this aggravating factor, by itself, may not be used to support a duration or disposition more severe than the duration or disposition that would apply to an offender whose criminal history score was one point greater than the offender’s criminal history score—two points greater, if both the current offense and the custody offense are sex offenses ranked at H or greater.

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*This document was prepared by the staff of the Minnesota Sentencing Guidelines Commission for the Commission’s review. This document has not been adopted by the Commission and does not necessarily represent its views.*