



Custody Status Guidelines Amendments – October Discussion

MSGC Staff Presentation
October 6, 2022

mn.gov/sentencing-guidelines

1

1

What must happen at this meeting?

- No requirement to act today
- The Guidelines' internal inconsistency regarding the treatment of one-half custody status point—
 - Has existed since August 2019
 - Was identified in August 2020
 - Was addressed by the Court of Appeals in 2021 (nonprecedential opinions) and 2022 (*State v. Beganovic*, a precedential opinion)
- If the Commission wants to resolve the inconsistency as soon as August 2023, it must advance a proposal at the November meeting
- And, to do that, it must* have **discussed** the proposal, or a prior or similar version of it, at today's meeting
 - *Waivable by a two-thirds vote in November*
- Today's goal: Discuss all viable November options for resolving the inconsistency

mn.gov/sentencing-guidelines

2

2

What has the Commission done?

- In October 2020, the Commission advanced to a public hearing a proposal to change the Guidelines' rounding rule – but, in January 2021, rejected that proposal
- In November 2021, after extensive discussion of multiple options, the Commission advanced to a public hearing a proposal to repeal the Guidelines' entire custody-status policy – but, in January 2022, withdrew that proposal for further study and community, stakeholder, and legislative engagement and education
- In July 2022, the Commission held a custody-status roundtable, after which Commissioner Larkin proposed to codify, in the Guidelines, the *Beganovic* opinion— which disregards a partial custody status point when calculating the criminal history score

mn.gov/sentencing-guidelines

3

3

Impact of codifying *Beganovic*

- Although *Beganovic* is the status quo, staff estimates (document 5A1) that the Larkin proposal would cause a 20-bed reduction in the need for prison beds
- This is because, even if a partial custody status point is not now used in the calculation of the criminal history score, staff considers it likely that a partial custody status point now increases the presumptive duration by three months for those with off-the-chart criminal history scores

mn.gov/sentencing-guidelines

4

4

Custody status questions to address today

- Are there any other/different Guidelines changes related to custody status the Commission wishes to discuss at today's meeting?
- Does the Commission wish to direct staff to provide any new research needed for November action?

mn.gov/sentencing-guidelines

5

5