CONSECUTIVE SUPERVISED RELEASE

Minnesota Sentencing Guidelines Commission

November 6, 2014
Today’s discussion

Basic options
Sentencing timing
Outstanding issues
MSGC decision
Today’s discussion

Basic options

Sentencing timing

Outstanding issues

MSGC decision
Proposal 1: Current DOC Practice

Proposal 2: Current MSGC Comment

Proposal 3: Compromise
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).

  - **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.

<table>
<thead>
<tr>
<th>Initial Term of Imprisonment</th>
<th>Initial Sup. Release Term</th>
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</thead>
<tbody>
<tr>
<td>10 Mo. Term of Imprison.</td>
<td>5 M</td>
</tr>
<tr>
<td>16 Mo. Term of Imprisonment</td>
<td>8 Mo. S.R.</td>
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