

Criminal Sentence Task Force
Road Map to the Potential Recommendations
Grouping of Potential Recommendations
DRAFT

SECTION D. Sentencing Discretion

# abbreviated	Potential Recommendation	Connection to other potential recommendations	Category/Grouping
16 Eliminate agg departures not req to be pled/proven	Eliminate the aggravated departures that are not required to be pled/proven (eliminating the stipulation as an aggravated factor)	Potential Rec 17	SENTENCING - DISCRETION
19 Eliminate mandatory consec for SV off - make concurrent	Eliminate the mandatory consecutive sentencing for serious violent offenses and make sentences concurrent.	Either 19, 20, 21	SENTENCING - DISCRETION
20 Eliminate mand consec sent for SV and add agg factor for SV w/ multiple victims	Eliminate the mandatory consecutive sentencing for serious violent offenses and add an aggravating factor for cases involving serious violent offenses with multiple victims.	Either 19, 20, 21. Also impacted by 17	SENTENCING - DISCRETION
21	Modify the mandatory consecutive sentencing for serious violent offenses such that it applies only when the offenses are for different victims.	Either 19, 20, 21.	SENTENCING - DISCRETION

Modify mandatory consec sent for SV off so only when the offenses are diferent victims			
22 Eliminate consec sent for firearm off and make concurrent	Eliminate the consecutive sentencing for firearm offenses and make those sentences concurrent.	Same as 23	SENTENCING - DISCRETION
23 eliminate mandatory consec sent firearms, allow discretion to make consecutive (same as 22)	Eliminate the mandatory consecutive sentencing for firearms offenses but allow judges discretion to make sentences consecutive.	Same as 22	SENTENCING - DISCRETION
24 Eliminate mand consec sent firearms, add agg factor re: culpability	Eliminate the mandatory consecutive sentencing for firearms offenses but add aggravating factors that may address the cases with most concern about culpability.	Impacted by 17	SENTENCING - DISCRETION
25	Modify the mandatory consecutive sentencing laws for firearms offenses such that sentences for different	Either 24 or 222/23	SENTENCING - DISCRETION

<p>modify mand consec sent for firearm so different criminal events are consecutive, but multiple off w/n single crimnal event are concurrent</p>	<p>criminal events are consecutive, but sentences for multiple offenses within a single criminal event are concurrent.</p>		
<p>27a Eliminate and do not replace 3 strikes</p>	<p>Eliminate and do not replace 3-strikes.</p>		<p>SENTENCING - DISCRETION</p>
<p>27b Replace 3 strikes with determinate plus - 25 years w/ opp for release</p>	<p>Replace 3-strikes mandatory sentence with determinate plus - 25 years with opportunity for release.</p>		<p>SENTENCING - DISCRETION</p>
<p>27c Replace 3 strikes w/ mandatory minimum 25 yeasers w/ discretion up to life</p>	<p>Replace 3-strikes mandatory sentence with mandatory minimum 25 years with judicial discretion up to life.</p>		<p>SENTENCING - DISCRETION</p>

SECTION E. Offense Record Score (Criminal History Score)

# abbreviated	Potential Recommendation	Connection to other potential recommendations	Category/Grouping
28 Eliminate special Misd scoring for felony traffic	Eliminate special Misd scoring for felony traffic.		OFFENSE RECORD SCORE
28a Reclassify felony DUI and PC from OSL 4 to 6	Eliminate special Misd scoring for felony traffic. Reclassify felony DUI and physical control from OSL 4 to OSL 6.		OFFENSE RECORD SCORE And OFFENSE CLASSIFICATION
29a Eliminate special Misd scoring for veh prowel - new subsection for other offenses at higher osl	Eliminate the special misdemeanor scoring exceptions for vehicular prowling and create a new subsection on Theft of a Motor Vehicle, Possession of a Stolen Vehicle, Taking a Motor Vehicle without the Owner's Permission 1st degree or 2nd degree for individuals with two prior misdemeanor convictions of vehicle prowl. Make these new subsections a higher OSL.		OFFENSE RECORD SCORE And OFFENSE CLASSIFICATION
29b Eliminate the special exception misdemeanor scoring for vehicle prowl.	Eliminate the special exception misdemeanor scoring for vehicle prowl.		OFFENSE RECORD SCORE

<p>30</p> <p>Eliminate special Misd scoring for homicide or assault by watercraft and reclassify to same OSL as felony traffic offense.</p>	<p>Eliminate the special misdemeanor scoring exceptions for homicide or assault by watercraft offenses and reclassify to the same OSL as the felony traffic offense.</p>		<p>OFFENSE RECORD SCORE And OFFENSE CLASSIFICATION</p>
<p>31</p> <p>Eliminate the misd scoring exception and create agg factor or enhancement</p>	<p>Eliminate the misdemeanor scoring exception and instead create an aggravated factor or enhancement. Maintain a way for judges to consider prior misdemeanor DV at sentencing. Aggravating factor would then be constrained under the potential recommendation for limiting increases in sentences as a result of aggravating factor. Potentially limited to offenses involving the same victim/same relationship. Potentially an option similar to the repeat violent column approach.</p>		<p>OFFENSE RECORD SCORE</p>
<p>32</p> <p>Include language in SRA that would define the scope of the CHS as limited to prior felony convictions.</p>	<p>Include language in the SRA that would define the scope of the CHS as limited to prior felony convictions.</p>	<p>30/31</p>	<p>OFFENSE RECORD SCORE</p>

SECTION F. Foundational

# abbreviated	Potential Recommendation	Connection to other potential recommendations	Category/Grouping
1 Supervision model - iCOACH	Since the current supervision model based on surveillance is insufficient, changes to the grid are based on a broader paradigm shift focused on providing the appropriate treatment and resources for individuals placed in state custody. To sufficiently achieve those goals, changes to the grid must include concurrent changes to the DOC community custody approach to fully adopt the i-COACH model or to adopt a separate form of Community Reentry.		FOUNDATIONAL
5 Ongoing monitoring/research	Require ongoing monitoring and larger, more in-depth statistical reviews after the first few years.		FOUNDATIONAL

SECTION G. Continuing Work

# abbreviated	Potential Recommendation	Connection to other potential recommendations	Category/Grouping
4 Sunset cmte offense review	Establish a sunset committee that reviews offenses that have not been sentenced in the last 5-10-20 years for potential elimination from the criminal code.		CONTINUING WORK

SECTION H. Post Sentencing Reform

# abbreviated	Potential Recommendation	Connection to other potential recommendations	Category/Grouping
12 Second chance review	For all sentences longer than 20 years, require a second chance review at 20 years of incarceration with the presumption of release.		POST SENTENCING REFORM

SECTION I. Legal Procedures and Other Sentencing Laws

# abbreviated	Potential Recommendation	Connection to other potential recommendations	Category/Grouping
26 Change legal procedure for three strikes laws to match agg factor. 3 strikes treated as elements of crime	Change the legal procedure for three-strikes laws to mirror aggravating factors such that the three-strikes must be treated as elements of the crime. Pled in information. Proven to a jury beyond a reasonable doubt. Individual acknowledges and agrees in a plea agreement		LEGAL PROCEDURES
11 Agg murder change to age 25 from 18	For aggravated murder 1 change the language from: "Life sentence without parole/death penalty for individuals at or over the age of eighteen. For individuals under the age of eighteen, a term of twenty-five years to life." To "Life sentence without parole/death penalty for individuals at or over the age of twenty-five. For individuals under the age of twenty-five, a term of twenty-five years to life."		LEGAL PROCEDURES

SECTION J. Sentencing Alternatives

# abbreviated	Potential Recommendation	Connection to other potential recommendations	Category/Grouping
9.1 CISRSP	Create a Community Intermediate Sanction and Reintegrative Services Sentencing Alternative Program.	9	SENTENCING ALTERNATIVES
38 Visually depict sent. alternatives on the grid	Include and visually depict sentencing alternatives on the adult felony sentencing guidelines grid.		SENTENCING ALTERNATIVES
39 Eliminate eligibility exclusion of prior violent offenses	Eliminate eligibility exclusions related to prior convictions for a violent offense from Sentencing Alternatives. This would eliminate eligibility exclusions related to prior convictions for a violent offense from pDOSA and rDOSA (prison and residential drug offense sentencing alternatives).		SENTENCING ALTERNATIVES
40 Eliminate DOSA cap.	Eliminate the cap on the number of DOSA sentences that an individual can receive in a 10-year period.		SENTENCING ALTERNATIVES

SECTION A-C DISCUSSED ON 7.12.22

SECTION A. Formula and Post Formula Adjustments

# abbreviated	Potential Recommendation	Connection to other potential recommendations	Category/Grouping
3 Stat max B and C anchor setting	To address cells where the presumptive sentencing range exceeds the statutory maximum for class C and class B felonies, make maximum of the range in CHS 9+ for OSL V 54 months and for OSL IX 108 months.	Tied to Rec 6, 7, 8, 9, 10, 13, 14.	FORMULA
6 Formula for OSL 1-5	Establish a formula for determining grid cell ranges for OSLs 1-5. Create the grid ranges for OSLs 1 –5 using 54 as the anchor for the most serious maximum punishment for OSL 5, CHS 9+.	Tied to Rec 6, 7, 8, 9, 10, 13, 14.	FORMULA
7 Reset minimum to 0 if max is <12	If the maximum sentence based on the formula is 12 months or less, the minimum is automatically reduced to zero.	Tied to Rec 6, 7, 8, 9, 10, 13, 14.	POST FORMULA ADJUSTMENT
8 Eliminate straddle cells - reset min to 12.01 if max >12.01	Eliminate Straddle Cells: If the maximum based on the formula is more than 12 months, the minimum must be at least 12 months and a day.	Tied to Rec 6, 7, 8, 9, 10, 13, 14.	POST FORMULA ADJUSTMENT
9	Keep Straddle Cells Keep Straddle Cells and Create a State-Funded Intermediate Sanction Zone	Tied to Rec 6, 7, 8, 9, 10, 13, 14.	POST FORMULA ADJUSTMENT

Keep straddle cells with zone for intermediation sanctions			
10 Eliminate mandatory minimum for M1	Eliminate the mandatory minimum for Murder 1.	Tied to Rec 6, 7, 8, 9, 10, 13, 14.	FORMULA
13 Increase number of OSLs from 16 to 18 & formula 10-17	<p>Increase the number of seriousness levels from 16 to 18 and establish a formula for OSL 10-17:</p> <ul style="list-style-type: none"> • OSL 18 is Aggravated Murder with a range of 25 to life regardless of Criminal History Score (as it currently is in SL 16) • OSL 17 is Murder 1 and Homicide by Abuse with current ranges for Murder 1. <ul style="list-style-type: none"> ○ Minimum for CHS 0 OSL 17 set at mandatory minimum as the anchor. ○ Maximum from CHS 1 – 9+ is 105% of prior maximum. ○ Minimum from CHS 1-9+ is 75% of maximum for each cell. • OSL 16 is Murder 2 with current maximums, but minimums made consistent at 50% of the maximum. • OSL 15 to 10 are as classified currently except for the offenses pulled out above. • The formula is used starting at OSL 16 (OSL 10-16, including M2): <ul style="list-style-type: none"> ○ High ranges: 	Tied to Rec 6, 7, 8, 9, 10, 13, 14.	FORMULA

	<ul style="list-style-type: none"> ▪ Current maximum sentence for Murder 2 is used as the anchor for OSL 10-16. ▪ Maximum at 0 CHS is 35% of Maximum at CHS 9+. ▪ Maximum from CHS 1 – 8 is 110% of prior maximum for OSL 10-16. ▪ Minimum is 75% of the maximum for each cell. <ul style="list-style-type: none"> ○ Mid-ranges: <ul style="list-style-type: none"> ▪ Maximum at 0 CHS is 20% of Maximum at CHS 9+. ▪ Maximum from CHS 1 – 8 is 120% of prior maximum. ▪ Minimum is 75% of the maximum for each cell. ○ Low-ranges: <ul style="list-style-type: none"> ▪ Maximum at 0 CHS is 20% of Maximum at CHS 9+. ▪ Maximum from CHS 1 – 8 is 120% of prior maximum. ▪ Minimum is 30% of the maximum for each cell. 		
<p>14</p> <p>Formula OSL 6-9</p>	<p>Establish a formula for determining grid cell ranges for OSLs 6-9. Create the grid ranges for OSLs 6 – 9 using 108 as the anchor for the most serious maximum punishment for OSL 9, CHS 9+.</p>	<p>Tied to Rec 6, 7, 8, 9, 10, 13, 14.</p>	<p>FORMULA</p>

SECTION B. **Offense Classification**

# abbreviated	Potential Recommendation	Connection to other potential recommendations	Category/Grouping
2 Reclass B and C - limit OSL with felony class	Move all felony class B offenses to no higher than OSL 9. Move all felony class C offenses to no higher than OSL 5. Include new legislative/statutory language specifying that: "Class C felony offenses may not exceed offense seriousness level 5. Class B felony offenses may not exceed offense seriousness level 9."	Means that some offenses will have ranges that exceed the statutory maximum.	OFFENSE CLASSIFICATION
13a Trafficking 1 to OSL 15 - all other offenses up one	Move Trafficking 1 to OSL 15 with Malicious Explosion of a Substance 1. Move all other offenses up one OSL.		OFFENSE CLASSIFICATION
28a Reclassify felony DUI and PC from OSL 4 to 6	Reclassify felony DUI and physical control from OSL 4 to OSL 6.		OFFENSE CLASSIFICATION
33 Aligning OSL, Felony Class, and Violent offense status	Aligning OSL, Felony Class, and Violent offense status: Proposal A and Proposal B		OFFENSE CLASSIFICATION

SECTION C. New Columns

# abbreviated	Potential Recommendation	Connection to other potential recommendations	Category/Grouping
15 Eliminate offense spec multipliers, add repeat v/sv column	Eliminate the offense-specific multipliers from the criminal history score calculation. And create a new column on the grid for repeat violent offending that increases the maximum of the standard sentencing range if the individual has convictions for a previous violent or serious violent offense.		NEW COLUMNS
17 Create new agg departure cap on grid	Create a new column on the grid with the maximum aggravated departure length.		NEW COLUMNS
18 Create mit departure cap	Create a new column on the grid with the maximum mitigated departure length. The amount should be graduated such that longer departures are acceptable for higher offense seriousness levels.		NEW COLUMNS