

# CONSECUTIVE SUPERVISED RELEASE

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Minnesota Sentencing Guidelines Commission

November 6, 2014

# Today's discussion



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60 Month Commitment to the Commissioner of Corrections		21 Mo., Consecutive	
40 Month Term of Imprisonment	20 Mo. Sup. Rel.	14 Mo. T. Imp.	7 Mo.

**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.	20 Mo. Sup. Rel.	7 Mo.
Aggregate 54 Month Term of Imprisonment		Agg. 27 Mo. Sup. Release	

**Proposal 3: Compromise**



40 Month Term of Imprisonment	14 Mo. T. Imp.	20 Mo. Sup. Rel.	
Aggregate 54 Month Term of Imprisonment		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:

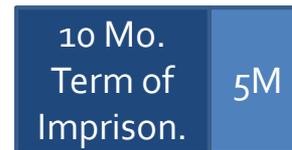
- Assumption: While on supervised release, an offender (criminal history score 4) commits, and is sentenced for, new offense (severity level 4).



- Consecutive** uses criminal history score of 1: **15 months**

vs.

- Concurrent** uses actual criminal history score of 4: **24 months**



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

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