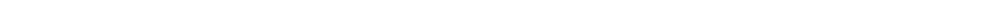

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Modifications to the
Initial Voluntary Sentencing Standards
(Presumptive Sentencing Recommendations
for Non-Violent Offenses)

.....

Adopted by the Alabama Sentencing Commission
December 13, 2012

.....

Effective October 1, 2013



I. GENERAL INSTRUCTIONS - Introduction

The Sentencing Standards¹ – A Structured Sentencing System

Alabama’s Sentencing Standards consist of worksheets, instructions, and sentence length tables. The Standards were initially adopted as voluntary sentencing recommendations for Alabama’s most frequently sentenced offenses. In Act 2012-473, (ALA. CODE § 12-25-34.2)², the Alabama Legislature changed the Standards for non-violent offenses as defined by ALA. CODE § 12-25-32(6) from voluntary to presumptive recommendations and directed the Alabama Sentencing Commission to make modifications as necessary to effect this change, including defining aggravating and mitigating circumstances that are required for sentencing departures from these recommendations. The primary modifications to the Initial Voluntary Sentencing Standards include defining a list of aggravating and mitigating factors for departures from presumptive sentencing recommendations, defining procedures for departure sentences, clarifying the initial instructions, and the addition of some non-violent offenses, along with higher sentence length ranges to accommodate historical sentencing practices for the additional offenses. The modifications must be used for sentencing events in which the most serious offense is subject to presumptive sentencing recommendations. The modifications made herein are not to be used when the most serious offense sentenced is a violent offense. The sentence recommendations for violent offenses, as defined in ALA. CODE § 12-25-32(14), including all burglaries, are unaffected by these changes and remain completely voluntary and non-appealable.

The Standards are:

- Developed by judges, prosecutors, defense lawyers, victim advocates, and other criminal justice officials in response to the legislative directive to recommend a more structured sentencing system in Alabama to address unwarranted disparity and prison overcrowding (reserving scarce prison resources for the most dangerous and violent offenders ALA. CODE § 12-25-2);
- Created from historical sentencing data reflecting the major factors considered in making sentencing decisions and the importance of those factors in sentencing;
- Developed to include the historical application of Alabama’s statutory sentence enhancements and mandatory minimums, except mandatory sentences of life without parole and sex offenses against children under the age of 12;
- Designed to mimic the two decisions in criminal sentencing – where and how the sentence is served, prison or non-prison (disposition), and the length of the sentence (duration);
- Expected to be followed in the vast majority of covered cases, leaving flexibility with judges to sentence higher or lower as appropriate in covered cases;
- Designed to preserve bedspace for violent offenders in prison and to provide more predictability in forecasting correctional populations; and
- Non-appealable, except departure sentences from presumptive recommendations for non-violent offenses are subject to limited appellate review as directed by ALA. CODE § 12-25-34.2(c).

¹ Hereinafter referred to as “Standards”, referencing the Standards’ worksheets, instructions, and sentence length tables.

² All references to ALA. CODE are to ALA. CODE (1975, as amended).

In addition, the Standards:

- Cover many of the most frequently sentenced felony offenses representing the vast majority of sentenced cases as well as the inchoate offenses of attempts, conspiracies, and solicitations for certain covered drug offenses;
- Standardize sentence recommendations for more informed and uniform sentencing practices and the elimination of unwarranted disparity;
- Allow judges to retain significant discretion in arriving at sentencing decisions as required by ALA. CODE § 12-25-2(a)(5);
- Encourage the use of probation and community correction programs for supervising appropriate non-violent offenders;
- Are not applicable to convictions requiring a mandatory life without parole sentence or to sex offenses involving a child victim under the age of 12 years; and
- Contain presumptive sentencing recommendations for non-violent offenses and voluntary sentencing recommendations for violent offenses.

The Standards consist of three sets of worksheets and corresponding prison sentence length tables, with instructions for completing each. Each covered offense has been classified into either the drug, property, or personal worksheets.

Each set of worksheets has two components: a prison In/Out worksheet that recommends a sentence disposition and a Prison Sentence Length worksheet that recommends a sentence length range from which a sentence is chosen. The recommendations for personal offenses remain voluntary. The property offenses are subdivided into two subsets to include two types of property offenses. The first property subset, still designated as “Property”, contains the felony burglary offenses and those recommendations remain voluntary. The second property subset, now designated as “Property A”, contains all other covered property offenses and those recommendations, along with the recommendations for covered drug offenses, become presumptive for applicable cases sentenced on or after October 1, 2013. Each type of worksheet relies on a separate sentence length table providing recommended sentence ranges based on the Prison Sentence Length Worksheet score from which the final sentence is selected unless a departure sentence is imposed.

The Standards also include a list of aggravating and mitigating factors upon which a sentence that departs from the presumptive Standards recommendations must be based.

For the purposes of implementing presumptive recommendations for non-violent offenses, the Legislature adopted the following definitions as provided in ALA. CODE §12-25-34.2.

- “(1) AGGRAVATING FACTORS. Substantial and compelling reasons justifying an exceptional sentence whereby the sentencing court may impose a departure sentence above the presumptive sentence recommendation for an offense. Aggravating factors may result in dispositional or sentence range departures, or both, and shall be stated on the record by the court.
- (2) DEPARTURE. A sentence which departs from the presumptive sentence recommendation for an offender.

-
- (3) DISPOSITION. The part of the sentencing courts presumptive sentence recommendation other than sentence length.
 - (4) DISPOSITIONAL DEPARTURE. A sentence which departs from the presumptive sentence recommendation for disposition of sentence.
 - (5) MITIGATING FACTORS. Substantial and compelling reasons justifying an exceptional sentence whereby the sentencing court may impose a departure sentence below the presumptive sentence recommendation for an offense. Mitigating factors may result in disposition or sentence range departures, or both, and shall be stated on the record by the court.
 - (6) NONVIOLENT OFFENSES. As defined in §12-25-32.
 - (7) PRESUMPTIVE SENTENCE RECOMMENDATION. The recommended sentence range and disposition provided in the sentencing Standards.
 - (8) SENTENCE RANGE. The sentencing court's discretionary range of length of sentence as provided and recommended in the presumptive sentencing recommendation.
 - (9) SENTENCE RANGE DEPARTURE. [Durational Departure] A sentence which departs from the presumptive sentence recommendation as to the sentence range.
 - (10) VIOLENT OFFENSES. As defined in Section 12-25-32."

II. GENERAL INSTRUCTIONS - Administrative Procedures

Responsibility for Completing Worksheets

Pursuant to ALA. CODE §12-25-35(a), the worksheets shall be completed by any person designated by the trial court judge including the prosecutor, a probation officer, or any other person. *The sentencing judge has the final responsibility for ensuring the worksheets are (1) completed for the most serious offense of conviction and reflect the appropriate worksheet factors, (2) considered by the court, and (3) sent to the court clerk to forward to the Alabama Sentencing Commission.*

Responsibilities of Worksheet Preparer

The worksheet preparer obtains the necessary information needed to complete the worksheet; totals the scores; and determines the recommended disposition and sentence length ranges based on the worksheet scores; distributes the worksheets to the appropriate parties; and presents the completed worksheets to the sentencing judge.

Worksheet Distribution

A copy of the completed sentencing worksheets must be presented to the prosecutor, the defendant and/or his attorney, and the sentencing judge prior to sentencing. ALA. CODE § 12-25-35 (d)

Worksheets should not be submitted to the Sentencing Commission until the final sentence (length and disposition) is imposed (i.e. probation hearing is not pending).

Use of the Worksheets by the Sentencing Judge

Prior to sentencing, the trial court shall review the Standards worksheets. In imposing sentence, the court shall indicate on the record that the applicable Standards, along with any aggravating and mitigating circumstances, have been reviewed and considered. § 12-25-35 (b)

After sentencing, the sentencing judge shall sign or initial the completed worksheets and file the completed worksheets, the sentencing order, and if applicable, the reasons for departure with the court clerk to include in the record in the case.

Responsibilities of the court clerk

The clerk of the court shall forward a copy of the final sentencing order or orders including, if applicable, the reasons for departure and a copy of the completed Standards worksheets prepared in the case to the Alabama Sentencing Commission within 45 days after the imposition of sentence, as required by ALA. CODE §12-25-35 (b). These documents must be sent in paper form³ by either:

E-mail: sentencing.commission@alacourt.gov;

Fax: (334) 954-2124;

US mail: Alabama Sentencing Commission
300 Dexter Avenue
Suite 2-230
Montgomery, AL 36104-3741

Judicial Disagreement with Worksheet Scoring and Instructions

To comport with the Standards, the sentence(s) must be imposed according to the appropriate Instructions.

³ For purposes of this requirement, an ALAVault document is considered a paper document.

III. GENERAL INSTRUCTIONS – When to use the Standards and Completing the Worksheets

Covered Offenses

The following offenses are covered by the Standards unless the conviction carries a mandatory life without parole sentence or is a sex offense involving a child victim under 12 years of age.

Personal Worksheets

Assault I
§13A-6-20

Assault II
§13A-6-21

Manslaughter
§13A-6-3

Murder
§13A-6-2

Rape I
§13A-6-61

Rape II
§13A-6-62

Robbery I
§13A-8-41

Robbery II
§13A-8-42

Robbery III
§13A-8-43

Sodomy I
§13A-6-63

Sodomy II
§13A-6-64

Property Worksheets

Burglary I
§13A-7-5

Burglary II
§13A-7-6

Burglary III
§13A-7-7

Property A Worksheets

Forgery II
§13A-9-3

Possession of a Forged Instrument II
§13A-9-6

Receiving Stolen Property I
§13A-8-17

Receiving Stolen Property II
§13A-8-18

Theft of Property I
§13A-8-3

Theft of Property II
§13A-8-4

Unauthorized Use/Break & Enter Vehicle
§13A-8-11 (a)(4) & (b)

Unlawful Possession/Use Credit/Debit Card
§13A-9-14

Drugs Worksheets

Felony DUI
§ 32-5a-191(h)

Manufacturing Controlled Substance I
§ 13A-12-218 (includes attempts, conspiracies, and solicitations)

Manufacturing Controlled Substance II
§ 13A-12-217 (includes attempts, conspiracies, and solicitations)

Possession of Controlled Substance
§ 13A-12-212 (includes attempts, conspiracies, and solicitations)

Possession of Marihuana I
§ 13A-12-213 (includes attempts, conspiracies, and solicitations)

Possession with Intent to Distribute Controlled Substance
§ 13A-12-211(c) (includes attempts, conspiracies, and solicitations)

Sale/Distribution of Marihuana (other than to minor)
§ 13A-12-211 (includes attempts, conspiracies, and solicitations)

Sale/Distribution of Schedule I-V (other than to minor)
§ 13A-12-211 (includes attempts, conspiracies, and solicitations)

Worksheets are Offense Specific

Worksheets should be completed only for worksheet offense convictions. Worksheets are not intended to provide guidance when sentencing similar crimes. The factors on the worksheets have been statistically derived specifically for the covered offenses and may or may not be statistically significant in predicting sentencing outcomes for other offenses not included in a worksheet sentencing event.

Sentencing Event

A sentencing event includes all convictions sentenced at the same time, whether included as counts in one case or in *multiple* cases, regardless of whether offenses are worksheet offenses.

The Most Serious Offense

Worksheets must be completed and considered when the “most serious offense” at a sentencing event is a worksheet offense in the same venue. Convictions occurring in different counties or venues constitute separate sentencing events.

Determining the Most Serious Offense at a Sentencing Event - Four Rules

Rule 1. Where two or more offenses at the same sentencing event are the same offense type covered by the same worksheet, the most serious offense is the offense with the highest number of points shown on the corresponding Prison Sentence Length Worksheet.

Rule 2. Where two or more offenses at the same sentencing event are covered by different worksheets, the most serious offense is the offense with the highest number of points shown on the applicable Prison Sentence Length worksheets. The preparer may complete all applicable worksheets and select the offense that results in the most severe penalty.

Example:

- If a defendant is being sentenced for Forgery II (44 points on the property Prison Sentence Length worksheet) and Sale/Distribution of Marihuana (84 points on the drug Prison Sentence Length worksheet) at the same sentencing event, the worksheet preparer should first complete the Drug Sentencing Worksheets to determine the recommended sentencing outcome. This is because Sale/Distribution of Marihuana has the highest point value as reflected on the Drug Sentence Length Worksheet. Then, the preparer could elect to score Forgery II as the primary offense on the property worksheets to determine which sentencing outcome would be most appropriate in this particular case.

Rule 3. Where a sentencing event includes both a worksheet offense and a non-worksheet offense and both carry the same statutory maximum penalty as governed by the felony offense classification, the worksheet offense is the most serious offense. The other offense should be scored as an additional offense where appropriate.

Example:

- If a defendant is sentenced for Criminal Mischief I and Theft of Property II (both having a statutory maximum penalty of 120 months) at the same event, the worksheet preparer should score the property worksheets for Theft of Property II as the most serious offense. This is because Theft of Property II is covered by the worksheets and Criminal Mischief I is not.

Rule 4. Where a sentencing event includes both a worksheet offense and a non-worksheet offense and the non-worksheet offense has a higher statutory maximum penalty as governed by the felony offense classification, the non-worksheet offense is the most serious offense and the Standards are not applicable to the convictions in that sentencing event.

Completing the In/Out Worksheet and the Prison Sentence Length Worksheet

Both the In/Out Worksheet and the Prison Sentence Length Worksheet applicable to the sentencing event must be completed.

Rules for Scoring Prior Records

Date of Prior Records - Prior records are to be scored based on convictions, juvenile delinquency and/or youthful offender adjudications occurring before the arrest date(s) of the offense(s) sentenced.

Ambiguous Prior Records - If an ambiguous entry on a prior record document cannot be resolved, the worksheet preparer should treat the information in a way that gives the benefit of the doubt to the offender. If any prior record disposition information is missing, the worksheet preparer should assume that no conviction occurred.

Burden and Manner of Proving Prior Records - In the event of a dispute, the burden of proving the prior record is on the prosecutor. For purposes of proving in-state prior convictions, any official court document – whether automated or hard copy – shall be sufficient for meeting the burden of proof requirement. When meeting the burden of proof for out-of-state convictions, certified copies of official court records shall be sufficient evidence. Out-of-state records need not be exemplified.

Prior Nolo Contendere Dispositions – Matters disposed of by pleas of *nolo contendere* or “no-contest” should be counted as prior convictions for worksheet purposes. In addition, any incarceration resulting from a plea of *nolo contendere* should be counted in the appropriate places on the worksheets.

Effect of Pardons – In the event a defendant has received a pardon for innocence, the conviction for which he or she received the pardon should be excluded when scoring prior convictions. Convictions resulting in all other pardons – e.g. those to restore voting rights – should not be excluded when scoring prior convictions.

Prior Misdemeanor or Violation Convictions – All criminal convictions should be counted. Traffic convictions do not count except: Driving Under the Influence, Boating Under the Influence, Leaving the Scene of an Accident, Attempting to Elude Law Enforcement, Driving Without a License, and Driving While License is Suspended or Revoked.

Prior DUI Convictions – All felony and misdemeanor DUI convictions occurring before the arrest date for the current offense should be counted as priors, even when the worksheets are being completed for Felony DUI.

Prior Incarceration – Any unsuspended incarceration resulting from a final sentence or adjudication including criminal convictions, and youthful offender and juvenile delinquency adjudications, or as the result of a *nolo contendere* disposition. Prior incarcerations do not include incarcerations resulting from probation, parole, or community corrections revocation, which are counted as a separate worksheet factor.

Time for Completing Worksheets and Determining Recommendations

Worksheets must be completed prior to the imposition of sentence in sufficient time for review by all parties and the sentencing judge.

In pre-trial diversion cases and “specialty” court (including drug court, mental health court, veterans’ court, etc.) cases, worksheets are not required until a sentence is imposed. Some courts impose a sentence as soon as an offender enters drug court. In these courts, worksheets are required to be completed “up front.” In other courts, sentencing does not occur unless the offender “flunks out” of the drug court program. In these courts, the worksheets must be filled out prior to sentencing.

Sentence Lengths

A sentence comports to the Standards when the sentence conforms to the recommendation on the In/Out Worksheet and the sentence length is chosen from the recommended sentence ranges on the Prison Sentence Length Tables, including, where prison is recommended, and a split sentence is imposed, the split portion of the sentence is not suspended and both the total sentence and the incarceration portion of the split conform to the recommendations on the sentence length tables.

A sentence that does not conform to the Standards, as set out above, is a departure sentence and may be entered only upon a finding of aggravating and/or mitigating factors that justify a departure from the presumptive sentence recommendations. Sentence length departures are governed by existing law and must be sentenced completely under existing law regarding length of sentence, independent of the Standards recommendations.

If a score on the Prison Sentence Length Worksheet falls between two scores listed on the Sentence Length Table, select the lower of the two scores to determine the recommended sentence range from which the sentence is chosen.

If a score on the Prison Sentence Length Worksheet is higher than any score listed on the Sentence Length Table, the sentencing event must be sentenced under existing law independent of the Standards.

When choosing a sentence from the recommended sentence range, the sentence chosen must not be less than the statutory sentences specified in ALA. CODE § 13A-5-6(a)(1)-(3), provided, however, the minimum sentence may still be “split” pursuant to ALA. CODE § 15-18-8, as specified in the instructions relating to the imposition of sentence.

- For a Class A felony, the minimum sentence imposed must be at least 120 months.
- For a Class B felony, the minimum sentence imposed must be at least 24 months.
- For a Class C felony, the minimum sentence imposed must be at least 12 months and 1 day.

A recommended sentence of 13 months includes any portion of the 13th month, i.e. 12 months and 1 day.

Judge’s Colloquy in Guilty Pleas

The court’s obligation to advise the defendant as to the statutory range of punishment prior to accepting a guilty plea is not affected by the Standards. However, where a departure sentence is sought, an additional colloquy may be required.

Imposition of Sentence

A sentence comports to the Standards when the sentence conforms to the recommendation on the In/Out Worksheet and the sentence length is chosen from the recommended sentence ranges on the Prison Sentence Length Table.

Once a sentence has been selected from the recommended Prison Sentence Length Table, the sentencing judge may determine how that sentence shall be imposed for that sentencing event. The total or aggregate sentence for the sentencing event cannot exceed the sentence selected for the most serious offense.

Example:

If a defendant is sentenced for three Class B felonies at one sentencing event and the chosen sentence is 120 months (10 years), the following is a non-exclusive list of examples of sentences the judge may impose:

- 120 months for each conviction to run concurrently = 120 months;
- 40 months for each conviction to run consecutively = 120 months; or
- one 60 month sentence and two 30 month sentences to run consecutively = 120 months.

In the above example, unless there is a departure, no combination of sentences can exceed 120 months for all cases or counts, for both covered and non-covered offenses.

A split sentence conforms to the Standards if the total sentence imposed and the length of the “split” fall within the statutory ranges specified in ALA. CODE §15-18-8 and the recommended sentence ranges provided in the Prison Sentence Length Table. Where the In/Out worksheet recommendation is “Prison” and a split sentence is imposed, the incarceration portion of the “split” cannot be suspended and comport with the Standards. The incarceration portion of the split must be served either in community corrections, if otherwise eligible, or in the actual custody of the Alabama Department of Corrections.

An unsuspended sentence to prison that results in actual incarceration (in a ADOC facility or a facility under contract to ADOC) is considered a “prison” sentence and does not conform to a “non-prison” recommendation under the Standards. A sentence conditioned on completing a program in the Department of Corrections includes an “unsuspended” sentence to prison and therefore does not comply with a “non-prison” recommendation. A sentence to community corrections is considered to conform to either a “prison” or “non-prison” recommendation.

A “reverse split” sentence is considered a “non-prison” sentence and does not conform to a “prison” recommendation under the Standards.

Examples of non-prison and prison dispositions

Non-prison

Probation
Community Corrections
County Jail / Work Release
Reverse Split
Split sentence with a suspended split

Prison (unsuspended sentence)

Department of Corrections (prison)
Community Corrections
Split to serve incarceration in
ADOC or Community Corrections

Departure Procedures

1. *In General – Departures Should be Rare* - The Standards are designed to provide appropriate recommendations for sentences in covered cases and are presumptive for non-violent covered offenses as defined in ALA. CODE §12-25-32. However, in exceptional cases, upon a finding of aggravating and/or mitigating factors, the sentencing court may depart from either a dispositional or durational sentence recommendation or from both. Departure sentences should be rare, with the court following the presumptive recommendation in the vast majority of sentenced cases.
2. *Two Decisions* - The disposition and the duration of sentence are two separate decisions requiring separate, although not necessarily different, aggravating and/or mitigating factors for each departure.
3. *Consideration of Aggravating and Mitigating Factors* - The Court must consider all aggravating and/or mitigating factors proven for a sentencing event, but the decision to depart from the presumptive sentence recommendation is in the discretion of the court.
 - Recognized aggravating and mitigating factors are provided below.
 - Worksheet scoring factors for the most serious offense may not be used as aggravating factors for the sentencing event.
 - A necessary element of the most serious offense may not be used as an aggravating factor for the sentencing event.⁴
4. *Burden of Proof – Aggravating Factors* - The prosecutor bears the burden of proving beyond a reasonable doubt that an aggravating factor exists. The defendant is entitled to a jury trial on the existence of any aggravating factor, unless the aggravating factor is admitted by the defendant or both the defendant and the prosecutor waive a jury determination and request the judge alone to decide. It is within the discretion of the trial court whether to bifurcate the trial and sentencing phase of a covered case.
5. *Burden of Proof – Mitigating Factors* - The defendant bears the burden of proving by a preponderance of the evidence that a mitigating factor exists. A jury is not required to determine the existence of a mitigating factor.
6. *Notice – Aggravation* - The prosecutor shall give the defendant notice of aggravating factors no less than seven (7) days before trial. Once given, notice is deemed sufficient for any future trial settings. For good cause shown, notice may be given at any time with the consent of the trial court, provided the defendant is given an opportunity to research and rebut the aggravating factor. Notice can be waived.
7. *Notice Requirements - Mitigation* - The defendant shall give the prosecutor notice of mitigating factors no less than seven (7) days before sentencing. Once given, notice is deemed sufficient for any future sentencing settings. For good cause shown, notice may be given at any time with the consent of the trial court, provided the prosecutor is given an opportunity to research and rebut the mitigating factor. Notice can be waived.

⁴ Some worksheet offenses may be committed in multiple ways. For instance, Unlawful Manufacture of a Controlled Substance in the first degree must have a combination of two of seven identified elements. If a third of the seven elements is proven beyond a reasonable doubt and is an aggravating factor, the use of that element as an aggravating factor is not precluded.

-
8. *Stating Reasons for Departure* - The aggravating and/or mitigating factors found as reasons for any departure must be stated in the written sentencing order, even if the departure sentence is the result of a plea agreement and the parties have agreed to the existence of the aggravating and/or mitigating factors.

Aggravating and Mitigating Factors

A departure sentence requires an aggravating and/or mitigating factor to be proven. The following is a list of factors that may justify a departure from the Standards.

Mitigating Factors

- The defendant's participation in the crime was relatively minor or the defendant acted under extreme duress or under the substantial domination of another person.
- At the time of the offense, the defendant was under the influence of extreme mental or emotional disturbance.
- The defendant's age or capacity to appreciate the criminality of his conduct or to conform his conduct to the requirements of law at the time of the crime significantly reduced the defendant's culpability at the time the offense was committed.
- The defendant has made substantial or full restitution to the victim(s).
- The defendant has provided substantial assistance in the investigation or prosecution of another person who is alleged to have committed an offense.
- The defendant has received an honorable discharge from the United States armed forces.
- The defendant has been a person of good character or has a good reputation in the community in which the defendant lives.
- The defendant has entered and is currently involved in or has successfully completed a drug treatment program or an alcohol treatment program subsequent to arrest and prior to trial.
- The defendant has a strong positive support system in the community or has exhibited a positive employment history.
- Any other "mitigating factor" reasonably related to the purposes of sentencing.

Aggravating Factors

- The crime involved multiple participants in the criminal conduct, and the defendant played a major role in the crime as the leader, organizer, recruiter, manager, or supervisor.
- The offense was committed for the benefit of, or at the discretion of, any streetgang as defined in ALA. CODE 13A-6-26(a), with the specific intent to promote, further, or assist in criminal activity by streetgang members.
- The defendant was hired or paid to commit the offense.
- The defendant held public office at the time of the offense and the offense was related to the conduct of the office.
- The offense involved a fiduciary relationship, including a domestic relationship, which existed between the defendant and victim.
- The victim was particularly vulnerable due to age, infirmity, or reduced physical capacity that was known or should have been known to the defendant.
- The defendant was incarcerated, on pretrial release, on probation or parole, or serving a community corrections sentence at the time the crime was committed, or otherwise under sentence of law.
- The offender being 18 or more years of age employs, hires, uses, persuades, induces, entices, or coerces an individual under 16 years of age to assist in the crime or to assist in avoiding detection or apprehension.
- The offense involved an attempted or actual taking or receipt of property of great monetary value or damage causing great monetary loss to the victim(s).
- The offense involved a high degree of sophistication or planning, occurred over a lengthy period of time, involved multiple victims, or involved a single victim victimized more than once.
- The commission of the offense created a substantial risk to human health or safety or a danger to the environment.
- The defendant exposed a child under 17 years of age to criminal conduct and/or endangerment.
- The defendant was motivated by the victim's actual or perceived race, color, religion, national origin, ethnicity, sexual orientation, or physical or mental disability to commit the offense.
- The defendant used the identity of another person without authorization to commit the crime.
- Any other "aggravating factor" reasonably related to the purposes of sentencing.

IV. GENERAL INSTRUCTIONS - Completing Each Worksheet

Because of the multiple ways in which sentencing occurs in Alabama, there is no requirement concerning which worksheet is completed first. It is suggested, however, the preparer first complete the case information at the top of the In/Out Worksheet and the Sentence Length Worksheet.

PRISON IN/OUT WORKSHEET

Step A - Complete the case information at the top of the In/Out Worksheet. Please print.

Defendant – fill in the defendant’s name as it appears in the court case file.

Case No. – fill in the case number for the **most serious offense** for the sentencing event. Include the county of conviction, circuit court (CC) or district court (DC), year of filing, and the case number. (e.g., 38-CC-2014-659)

Judge – fill in the name of the judge presiding over sentencing in the case.

Prosecutor – fill in the name of the prosecutor at this sentencing event.

Probation Officer – fill in the name of the probation officer assigned to this case.

Defense Attorney – fill in the name of the attorney representing the defendant at sentencing, or if more than one attorney, the lead attorney in the case.

Worksheet Preparer, Title – fill in the name and the title of the worksheet preparer.

List Additional Cases Sentenced for this Event – If there are two or more cases sentenced at this sentencing event, fill in the case numbers for the additional cases. Also include additional counts by listing the specific additional convicted offenses.

Defendant _____ Case No. _____
Judge _____ Prosecutor _____
Probation Officer _____ Defense Attorney _____
Worksheet Preparer, Title _____
List Additional Cases Sentenced for this Event _____

Step B – Complete the Sentencing Factors Section. See the instructions for each worksheet.

Step C – Prison In/Out Worksheet Recommendation:

1. Total the scores from the Sentencing Factors Section and record the total score in the Total Score box.
2. Circle the recommendation (non-prison or prison) that conforms to the total score. A sentence disposition under the Standards must conform to the Prison In/Out recommendation unless a sentence disposition departure is entered.

Drug In/Out Recommendation (Presumptive Disposition)	Total Score
1-7 points: Non-Prison	8 or more points: Prison

Property A In/Out Recommendation (Presumptive Disposition)	Total Score
8-14 points: Non-Prison	15 or more points: Prison

Step D – After sentencing, if the judge departs from the In/Out worksheet recommendation, the judge must enter the reason for departure in the sentencing order.

PRISON SENTENCE LENGTH WORKSHEET

Step A - Complete the case information at the top of the Prison Sentence Length Worksheet.

Defendant – fill in the defendant’s name as it appears in the court case file.

Case No. – fill in the case number for the **most serious offense** for the sentencing event.

Step B – Complete the Sentencing Factors Section. See the instructions for each worksheet.

Step C - Prison Sentence Length Worksheet Recommendation:

1. Total the scores from the Sentencing Factors Section and record the total score in the Total Score box.
2. Go to the Prison Sentence Length Range table and select the sentence ranges that conform to the total score.
3. Record the recommended ranges on the Prison Sentence Length Worksheet.

See Prison Sentence Length Table		<i>Step C1</i>
		Total Score <input type="text"/>
<i>Step C3</i> Presumptive Sentence Range ___ to ___ (straight) ___ to ___ (split)		
		Judge’s Signature/Initial _____

PRISON SENTENCE LENGTH RANGES FOR WORKSHEET

This table contains recommended sentence length ranges from which a specific sentence that comports with the Standards is chosen.

The table is divided into three sections or column groups.

1. The first column is a list of scores corresponding to the “Total Score” from the Sentence Length Worksheet.
2. The next three columns (Total Sentence) list the recommended sentence ranges from which a sentence may be chosen.
3. The last three columns (Time to Serve on Split) provide the recommended sentence ranges for the incarceration portion of a split sentence in the event the judge chooses to impose a split sentence.

Score	Total Sentence			Time to Serve On Split		
	<u>Low</u>	<u>Mid</u>	<u>High</u>	<u>Low</u>	<u>Mid</u>	<u>High</u>
32	13	18	23	6	9	12
37	13	22	31	6	9	12
39	13	22	31	6	9	12
42	13	22	31	6	9	12
44	13	22	31	6	9	12
45	13	22	31	6	9	12
46	13	22	31	6	9	12
47	13	22	31	6	9	12
49	14	23	31	6	9	12
51	14	23	31	6	9	12
52	14	27	38	6	9	12
53	14	27	38	6	9	12
54	14	27	38	6	9	12
55	14	27	38	6	9	12
56	14	31	46	6	9	12
57	14	31	46	6	9	12
58	14	31	46	6	9	12

This table is not intended to encourage or discourage the use of split sentences. The use of split remains a matter entirely within the discretion of the sentencing judge.

Step A - Find the score on the sentence length tables that matches the total score on the prison sentence length worksheet. If no match is found, select the next lowest score corresponding to the Total Score on the Prison Sentence Length Worksheet.

If the worksheet score exceeds the highest score on the Sentence Length Table, the sentencing event is no longer a worksheet event, the Standards are not applicable, and the defendant must be sentenced under existing law. In this event, the worksheets, along with the sentencing order still *must* be made a part of the record and filed with the court clerk to be forwarded to the Alabama Sentencing Commission to show why the sentencing event is independent from the Standards.

Step B – Identify the recommended sentence range for that score in “Total Sentence” columns.

Step C - Identify the recommended sentence range for the incarceration portion of a split sentence from the “Time to Serve on Split” columns.

Step D - Record the recommended sentence ranges on the Prison Sentence Length Worksheet.

Step E – After sentencing, if the judge departs from the Prison Sentence Length Worksheet recommendation, the judge must enter the reason for departure in the sentencing order.

Final Step - File the completed worksheets (Prison In/Out and Prison Sentence Length) with the court clerk. After final sentencing, the court clerk shall forward a copy of the completed worksheets and a copy of the final sentencing order to the Alabama Sentencing Commission.

Alabama Sentencing Commission
300 Dexter Avenue
Suite 2-230
Montgomery, AL 36104-3741
Fax: (334) 954-5201
email: sentencing.commission@alacourt.gov

The Drug offenses listed below are covered by the Sentencing Standards subject to Presumptive Sentencing Recommendations.

Most Serious Offense at Conviction Ranking

Manufacturing Controlled Substance I
(includes attempts, conspiracies, and solicitations)
§ 13A-12-218
286 points

Sale/Distribution of Schedule I-V (other than to minor)
(includes attempts, conspiracies, and solicitations)
§ 13A-12-211
113 points

Manufacturing Controlled Substance II
(includes attempts, conspiracies, and solicitations)
§ 13A-12-217
105 points

Possession with Intent to Distribute a Controlled Substance
(includes attempts, conspiracies, and solicitations)
§ 13A-12-211(c)
105 points

Sale/Distribution of Marihuana (other than to minor)
(includes attempts, conspiracies, and solicitations)
§ 13A-12-211
84 points

Possession of a Controlled Substance
(includes attempts, conspiracies, and solicitations)
§ 13A-12-212
71 points

Felony DUI
§ 32-5a-191(h)
42 points

Possession of Marihuana I
(includes attempts, conspiracies, and solicitations)
§ 13A-12-213
42 points

INSTRUCTIONS - - Drug Prison In/Out Worksheet

1. Case Information Section

Complete prior to sentencing. See the General Instructions to complete this section.

2. Sentencing Factors Section

Complete prior to sentencing.

3. Most Serious Conviction Offense - Following the general instructions, the preparer should select only the most serious offense being sentenced at the current sentencing event. Where two or more offenses have the same score, circle the specific offense scored as the most serious conviction offense on this worksheet. The preparer should enter the number of points assigned to the most serious offense.

4. Number of Prior Adult Felony Convictions - Count all felony convictions that occurred prior to the arrest date(s) of the offense(s) being sentenced at the current sentencing event.

5. Number of Prior Adult Convictions for Misdemeanors or Violations - Count all criminal convictions for misdemeanor offenses or violations that occurred prior to the arrest date(s) of the offense(s) being sentenced at the current sentencing event. Only include the serious traffic offenses of (1) DUI, (2) BUI, (3) Leaving the Scene of an Accident, (4) Attempting to Elude, (5) Driving without a License or (6) Driving while License is Suspended or Revoked.

6. Prior Incarceration with Unsuspended Sentence Imposed of 1 Year or More - Count prior prison, jail, Department of Corrections/community corrections, and YO or Juvenile Delinquency sentences where the non-suspended time imposed was one year or greater. Count only sentences that occurred prior to the arrest date(s) of the offense(s) being sentenced.

7. Prior Probation or Parole Revocation - Count prior probation or parole revocations that occurred prior to the arrest date(s) of the offense(s) being sentenced at the current sentencing event. Only *felony* probation revocations should be scored.

8. Number of Prior Juvenile Delinquency or Youthful Offender Adjudications - Count all juvenile delinquency and Youthful Offender adjudications that occurred prior to the arrest date(s) of the offense(s) being sentenced at the current sentencing event. *Note: use the definition for misdemeanors or violations as set out in factor #5.*

9. Possession/Use of a Deadly Weapon or Dangerous Instrument - Count this factor if there was a connection (other than the mere possession of a weapon) between the presence of a deadly weapon (or dangerous instrument) and the commission of any offense(s) being sentenced at the current sentencing event. This factor should not be counted if the deadly weapon or dangerous instrument is merely “loot” or proceeds of a sale. For the purpose of completing the worksheets, a deadly weapon or dangerous instrument shall be defined pursuant to Sections 13A-1-2 and 13A-11-72.

10. Recommendation Section

Total Score - Prior to sentencing, total the scores from the Sentencing Factors Section.

11. Non-Prison: 1-7 Points

Circle “non-prison” as the sentence disposition recommendation. Several examples are given in the General Instructions for non-prison sentence options. These examples are not given to limit the recommendation but

merely as a guide to some available sentences. The examples are not intended to establish any new sentence types.

12. Prison: 8 or more points

Circle “prison” as the sentence disposition recommendation. Several examples are given in the General Instructions for prison sentence options. These examples are not given to limit the recommendation but merely as a guide to some available sentences. The examples are not intended to establish any new sentence types.

After sentencing, the completed worksheet must be filed with the court clerk and made a part of the record. The court clerk shall forward a copy of this worksheet and the Prison Sentence Length worksheet, along with a copy of the Court’s final Sentencing Order, to the Alabama Sentencing Commission.

Departure Sentences

If the recommended disposition is not followed, refer to the General Instructions III for procedures relating to departure sentences and requiring the finding of aggravating and/or mitigating circumstances.

Drug Prison In/Out Worksheet

Eff.10-1-2013

Defendant _____
 Judge _____
 Probation Officer _____
 Worksheet Preparer, Title _____

Case No. _____
 Prosecutor _____
 Defense Attorney _____
 Additional Cases _____

Most Serious Conviction Offense _____

Please circle one *offense*

- | | |
|--|--|
| Possession of Marihuana or Controlled Substance..... 1 | Sale/Distribution of Marihuana (other than to minor)..... 6 |
| A/S/C Possess Marihuana or Controlled Substance..... 1 | A/S/C Sale/Distribute Marihuana (other than to a minor)..... 6 |
| Felony DUI..... 4 | Sale/Distribution of Schedule I-V (other than to minor).....6 |
| Possess with Intent to Distribute Controlled Sub..... 5 | A/S/C Sale/Distribution of Schedule I-V (other than to a minor)... 6 |
| A/S/C Possess with Intent to Distribute Controlled Sub...5 | Manufacturing Controlled Substance 1 st8 |
| Manufacturing Controlled Substance 2 nd5 | A/S/C Manufacturing Controlled Substance 1 st8 |
| A/S/C Manufacturing Controlled Substance 2 nd 5 | |

**A/S/C = Attempt/Solicitation/Conspiracy*

Score

Number of Prior Adult Felony Convictions _____

- | | |
|-----------------|---|
| None | 0 |
| 1 | 2 |
| 2 | 3 |
| 3 | 5 |
| 4 | 6 |
| 5 or more | 7 |

Score

Number of Prior Adult Convictions for Misdemeanors or Violations _____

- | | |
|------------------|---|
| 0-1 | 0 |
| 2-5 | 1 |
| 6-9 | 2 |
| 10 or more | 3 |

Score

Prior Incarceration with *Unuspended* Sentence Imposed of 1 Year or More _____

- | | |
|--------------|---|
| If Yes | 3 |
|--------------|---|

Score

Prior Felony Probation or Parole Revocation _____

- | | |
|--------------|---|
| If Yes | 1 |
|--------------|---|

Score

Number of Prior Juvenile Delinquency or YO Adjudications (Violation/Misd/Felony) _____

- | | |
|-----------------|---|
| 0 | 0 |
| 1-2 | 1 |
| 3-4 | 2 |
| 5 or more | 3 |

Score

Possession/Use of a Deadly Weapon or Dangerous Instrument _____

- | | |
|--------------|---|
| If Yes | 2 |
|--------------|---|

Score

Presumptive Disposition

Total Score

1-7 points: Non-Prison

8 or more points: Prison

INSTRUCTIONS - - Drug Prison Sentence Length Worksheet

The Case Information and Sentencing Factors section of this worksheet must be completed prior to sentencing.

1. Case Information Section

Enter the Defendant's name and Case Number even if it has already been entered on the In/Out worksheet.

2. Sentencing Factors Section

Complete prior to sentencing.

3. Most Serious Conviction Offense – Following the general instructions, the scorer should select only the most serious offense being sentenced at the current sentencing event. Where two or more offenses have the same score, circle the specific offense scored as the most serious conviction offense on this worksheet. The scorer should enter the number of points assigned to the most serious offense.

4. Number of Additional Felony Convictions (Including Counts) - The scorer should total all offenses being sentenced other than the most serious offense being sentenced at the present time. In the event of a multi-count indictment, all counts in which the defendant was found guilty or entered a guilty plea should be counted the same as separate convictions.

5. Number of Prior Adult Felony Convictions - Count all felony convictions that occurred prior to the arrest date(s) of the offense(s) being sentenced at the current sentencing event.

6. Number of Prior Adult Felony Class C Convictions - Count only the number of Class C felony convictions that occurred prior to the arrest date(s) of the offense(s) being sentenced at the current sentencing event.

7. Prior Incarceration with Unsuspended Sentence Imposed of 1 Year or More - Count prior prison, jail, Department of Corrections/community corrections, and YO or Juvenile Delinquency sentences where the non-suspended time imposed was one year or greater. Count only sentences that occurred prior to the arrest date(s) of the offense(s) being sentenced.

8. Prison Sentence Length Recommendation

Total Score – Total the scores from the Sentencing Factors Section.

9. Recommended Sentence Range - Go to the Drug Prison Sentence Length Ranges for Worksheet Table to convert the score into a sentence length recommendation. Record the recommended sentence range for the total sentence in the space identified as “straight”. Record the recommended split sentence range in the space provided. The sentence for the most serious offense must come from these recommended ranges to comport with the standards. Statutory enhancements, as they have been applied, have been factored into the sentence length table recommendations and should *not* be added.

10. Judges Signature or Initials

After the sentencing recommendations are completed and sentence has been imposed, the sentencing judge should sign or initial the worksheet to identify and acknowledge the worksheet has been reviewed and was considered prior to sentencing.

After sentencing, the completed worksheet must be filed with the court clerk and made a part of the record. The court clerk shall forward a copy of this and the Prison In/Out worksheet, along with a copy of the Court's final Sentencing Order, to the Alabama Sentencing Commission.

Departure Sentences

If the recommended sentence length is not followed, refer to the General Instructions III for procedures relating to departure sentences and requiring the finding of aggravating and/or mitigating circumstances.

Drug Prison Sentence Length Worksheet

Eff.10-1-2013

Defendant _____ **Case No.** _____

Most Serious Conviction Offense _____ Please circle one offense

Felony DUI or Possession of Marihuana..... 42	Manufacturing Controlled Substance 2 nd 105
A/S/C Possession of Marihuana..... 42	A/S/C Manufacturing Controlled Substance 2 nd 105
Possession of a Controlled Substance..... 71	Sale/Distribution of Schedule I-V (other than to a minor)..... 113
A/S/C Possession of a Controlled Substance..... 71	A/S/C Sale/Distribute Schedule I-V Drugs (other than to minor) 113
Sale/Distribution of Marihuana (other than to a minor)..... 84	Manufacturing Controlled Substance 1 st 286
A/S/C Sale/Distribution of Marihuana (other than to minor).... 84	A/S/C Manufacturing Controlled Substance 1 st 286
Possession with Intent to Distribute Controlled Sub.....105	
A/S/C Possession with Intent to Distribute Controlled Sub.. 105	

**A/S/C = Attempt/Solicitation/Conspiracy*

Score

Number of Additional Felony Convictions (Including Counts) _____

None	0
1	15
2	29
3	44
4 or more	58

Score

Number of Prior Adult Felony Convictions _____

None	0
1	10
2	20
3	30
4	40
5 or more	50

Score

Number of Prior Adult Felony Class C Convictions _____

None	0
1	7
2	14
3	21
4	28
5	35
6	43
7 or more	50

Score

Prior Incarceration *Unsuspected* with Sentence Imposed of 1 Year or More _____

If Yes	14
--------------	----

Score

See Prison Sentence Length Table

Total Score

Presumptive Sentence Range _____ to _____ (straight) _____ to _____ (split)

Judge's Signature/Initial

The final sentencing order (after grant or denial of probation) must be attached.

Drug Prison Sentence Length Ranges for Worksheet

Time in Months

<u>Score</u>	<u>Total Sentence</u>			<u>Time to Serve On Split</u>		
	<u>Low</u>	<u>Mid</u>	<u>High</u>	<u>Low</u>	<u>Mid</u>	<u>High</u>
42	13	23	32	6	9	12
49	13	23	32	6	10	14
52	13	23	32	6	10	14
56	13	23	32	6	10	14
57	13	23	32	6	10	14
59	13	23	32	6	10	14
62	13	23	32	6	10	14
64	13	23	32	6	10	14
66	13	23	32	6	12	18
67	13	23	32	6	12	18
69	13	23	32	6	12	18
70	13	23	32	6	12	18
71	13	23	32	6	12	18
72	13	23	32	6	12	18
73	13	23	32	6	12	18
74	13	23	32	6	12	18
76	13	39	65	6	12	18
77	13	39	65	6	12	18
78	13	39	65	6	17	27
79	13	39	65	6	17	27
80	13	39	65	8	18	27
81	13	39	65	8	18	27
82	13	39	65	8	18	27
83	13	39	65	8	18	27
84	13	39	65	8	18	27
86	13	39	65	8	18	27
87	13	39	65	8	18	27
88	13	39	65	8	18	27
89	13	39	65	8	18	27
90	13	39	65	8	18	27
91	13	39	65	8	18	27
92	13	39	65	8	18	27
93	13	39	65	8	18	27
94	13	39	65	8	18	27
95	13	39	65	8	18	27
96	13	39	65	8	18	27
97	13	39	65	8	18	27
98	13	39	65	8	18	27
99	13	39	65	8	18	27
100	13	39	65	8	18	27
101	13	39	65	8	18	27
102	13	39	65	8	18	27
103	13	39	65	8	18	27
104	13	55	97	8	18	27
105	15	56	97	8	18	27
106	15	56	97	8	18	27
107	15	56	97	8	18	27
108	15	56	97	8	18	27
109	15	56	97	8	18	27
110	15	56	97	8	18	27
111	15	56	97	8	18	27
112	15	56	97	8	18	27
113	15	56	97	8	18	27
115	15	56	97	8	18	27
116	15	56	97	8	18	27

Score	Total Sentence			Time to Serve On Split		
	Low	Mid	High	Low	Mid	High
117	15	56	97	8	18	27
118	15	56	97	8	18	27
119	15	56	97	8	18	27
120	15	56	97	8	18	27
121	15	56	97	8	18	27
122	15	56	97	8	18	27
123	15	56	97	8	18	27
124	15	56	97	8	18	27
125	15	56	97	8	18	27
126	18	58	97	8	18	27
127	18	58	97	8	18	27
128	18	58	97	8	18	27
130	18	58	97	8	18	27
132	18	58	97	8	18	27
133	18	58	97	8	18	27
134	18	58	97	8	18	27
135	18	58	97	8	18	27
136	18	58	97	8	18	27
137	18	58	97	8	18	27
138	18	58	97	8	18	27
139	18	58	97	8	18	27
140	18	58	97	8	18	27
141	21	62	104	8	18	27
142	21	62	104	8	18	27
143	21	62	104	8	18	27
144	21	62	104	8	18	27
145	21	62	104	8	18	27
146	21	62	104	8	18	27
147	21	62	104	8	18	27
148	24	64	104	8	18	27
149	24	64	104	8	18	27
150	24	64	104	8	18	27
152	24	64	104	8	18	27
154	30	67	104	12	20	27
155	30	67	104	12	20	27
156	30	67	104	12	20	27
157	30	67	104	12	20	27
158	30	67	104	12	20	27
159	30	67	104	12	20	27
160	30	67	104	12	20	27
161	30	67	104	12	20	27
162	30	67	104	12	20	27
163	30	67	104	12	20	27
164	30	67	104	12	20	27
165	30	67	104	12	20	27
166	30	67	104	12	20	27
167	30	67	104	12	20	27
168	30	67	104	12	20	27
169	30	67	104	12	20	27
170	30	67	104	12	20	27
171	30	67	104	12	20	27
172	36	70	104	12	20	27
173	36	70	104	12	20	27
174	36	70	104	12	20	27
176	36	70	104	12	20	27
177	36	70	104	12	24	36
178	36	70	104	12	24	36
181	45	87	130	16	26	36
182	45	87	130	16	26	36

Score	Total Sentence			Time to Serve On Split		
	Low	Mid	High	Low	Mid	High
183	45	87	130	16	26	36
184	45	87	130	16	26	36
185	45	87	130	16	26	36
188	45	87	130	24	30	36
189	45	87	130	24	30	36
191	45	87	130	24	30	36
192	45	87	130	24	30	36
195	45	87	130	24	30	36
196	45	87	130	24	30	36
198	45	87	130	24	30	36
199	45	87	130	24	30	36
200	45	87	130	24	30	36
203	45	87	130	24	30	36
205	45	87	130	24	30	36
206	45	87	130	24	30	36
212	45	87	130	24	30	36
213	45	87	130	24	30	36
214	45	87	130	24	30	36
220	45	87	130	24	30	36
222	45	87	130	24	30	36
227	45	87	130	24	30	36
232	45	87	130	24	30	36
235	45	87	130	24	30	36
242	45	87	130	24	30	36
250	50	90	130	24	30	36
255	50	90	130	24	30	36
258	60	95	130	24	30	36
262	60	95	130	24	30	36
270	60	95	130	24	30	36
276	70	100	130	24	30	36
280	70	100	130	24	30	36
286	120	150	180	24	30	36
300	120	150	180	24	30	36
315	120	150	180	24	30	36
320	180	210	240	36	48	60
345	180	210	240	36	48	60
360	180	210	240	36	48	60
381	180	210	240	36	48	60

The Property “A” offenses listed below are covered by the Sentencing Standards subject to Presumptive Sentencing Recommendations.

Most Serious Offense at Conviction Ranking

Theft of Property I
§ 13A-8-3
58 points

Receiving Stolen Property I
§ 13A-8-17
58 points

Theft of Property II
§ 13A-8-4
46 points

Receiving Stolen Property II
§ 13A-8-18
46 points

Forgery II
§ 13A-9-3
44 points

Possession Forged Instrument II
§ 13A-9-6
42 points

Possession/Use Credit/Debit Card
§ 13A-9-14
39 points

Unauthorized Use/Break & Enter Vehicle
§ 13A-8-11(a)(4) & (b)
32 points

INSTRUCTIONS - - Property “A” Prison In/Out Worksheet

1. Case Information Section

Complete prior to sentencing. See the General Instructions to complete this section.

2. Sentencing Factors Section

Complete prior to sentencing.

3. Most Serious Conviction Offense – Following the general instructions, the preparer should select only the most serious offense being sentenced at the current sentencing event. Where two or more offenses have the same score, circle the specific offense scored as the most serious conviction offense on this worksheet. The preparer should enter the number of points assigned to the most serious offense.

4. Number of Prior Adult Felony Convictions- Count all felony convictions that occurred prior to the arrest date(s) of the offense(s) being sentenced at the current sentencing event.

5. Number of Prior Adult Convictions for Same Felony - Count all felony convictions for the same offense that occurred prior to the arrest date of the most serious offense being sentenced at the current sentencing event. Only count those offenses where the crime and the degree are identical to the current offense. For instance, if the current most serious offense is Theft of Property I, then a prior Theft of Property II or III conviction would not be scored in this section.

6. Number of Prior Adult Convictions for Misdemeanors or Violations - Count all criminal convictions for misdemeanor offenses or violations that occurred prior to the arrest date(s) of the offense(s) being sentenced at the current sentencing event. Only include the serious traffic offenses of (1) DUI, (2) BUI, (3) Leaving the Scene of an Accident, (4) Attempting to Elude, (5) Driving without a License or (6) Driving while License is Suspended or Revoked.

7. Prior Incarceration with Unsuspended Sentence Imposed of 1 Year or More - Count prior prison, jail, Department of Corrections/community corrections, and YO or Juvenile Delinquency sentences where the non-suspended time imposed was one year or greater. Count only sentences that occurred prior to the arrest date(s) of the offense(s) being sentenced.

8. Prior Incarceration with Unsuspended Sentence Imposed of Less Than 1 Year - Count prior prison, jail, Department of Corrections/community corrections, and YO or Juvenile Delinquency sentences where the non-suspended time imposed was less than one year. Count only sentences that occurred prior to the arrest date(s) of the offense(s) being sentenced.

9. Prior Probation or Parole Revocation - Count probation or parole revocations that occurred prior to the arrest date(s) of the offense(s) being sentenced at the current sentencing event. Only *felony* probation revocations should be scored.

10. Number of Prior Juvenile Delinquency or Youthful Offender Adjudications - Count all juvenile delinquency and Youthful Offender adjudications that occurred prior to the arrest date(s) of the offense(s) being sentenced at the current sentencing event. *Note: use the definition for misdemeanors or violations as set out in factor #6.*

11. Possession/Use of a Deadly Weapon or Dangerous Instrument - Count this factor if there was a connection (other than the mere possession of a weapon) between the presence of a deadly weapon (or dangerous instrument) and the commission of any of the offense(s) being sentenced at the current sentencing event. This factor should not be counted if the deadly weapon or dangerous instrument is merely “loot” or

proceeds of a sale. For the purpose of completing the worksheets, a deadly weapon or dangerous instrument shall be defined pursuant to Sections 13A-1-2 and 13A-11-72.

12. Injury to Victim – Count this factor if a victim suffered physical injury or serious physical injury during the commission or flight from the offense. For the purposes of completing the worksheet, physical injury shall be defined pursuant to Section 13A-1-2 (12), Code of Alabama 1975, and serious physical injury shall be defined pursuant to Section 13A-1-2 (14), Code of Alabama 1975.

13. Recommendation Section

Total Score - Prior to sentencing, total the scores from the Sentencing Factors Section.

14. Non-Prison: 8-14 Points

Circle “non-prison” as the sentence disposition recommendation. Several examples are given in the General Instructions for non-prison sentence options. These examples are not given to limit the recommendation but merely as a guide to some available sentences. The examples are not intended to establish any new sentence types.

15. Prison: 15 or more points

Circle “prison” as the sentence disposition recommendation. Several examples are given in the General Instructions for prison sentence options. These examples are not given to limit the recommendation but merely as a guide to some available sentences. The examples are not intended to establish any new sentence types.

After sentencing, the completed worksheet must be filed with the court clerk and made a part of the record. The court clerk shall forward a copy of this worksheet and the Prison Sentence Length worksheet, along with a copy of the Court’s final Sentencing Order, to the Alabama Sentencing Commission.

Departure Sentences

If the recommended disposition is not followed, refer to the General Instructions III for procedures relating to departure sentences and requiring the finding of aggravating and/or mitigating circumstances.

Property "A" Prison In/Out Worksheet

Defendant _____

Case No. _____

Judge _____

Prosecutor _____

Probation Officer _____

Defense Attorney _____

Worksheet Preparer, Title _____

List Additional Cases/Counts Sentenced for this Event _____

Most Serious Conviction Offense _____ Please circle one offense

Possession/Use Credit/Debit Card 8

Possession Forged Instrument II, Forgery II, Theft of Prop II, Receive Stolen Prop II 9

Theft of Prop I, Receive Stolen Prop I, Unauthorized Use/B&E Vehicle 10

Score

Number of Prior Adult Felony Convictions _____

None 0

1-2 1

3-4 2

5 or more 3

Score

Number of Prior Adult Convictions for Same Felony _____

None 0

1 1

2 2

3-4 3

5 or more 4

Score

Number of Prior Adult Convictions for Misdemeanors or Violations _____

0-1 0

2-5 1

6-9 2

10 or more 3

Score

Prior Incarceration with *Unsuspending* Sentence Imposed of 1 Year or More _____

If Yes 6

Score

Prior Incarceration with *Unsuspending* Sentence Imposed of Less Than 1 Year _____

If Yes 3

Score

Prior Felony Probation or Parole Revocation _____

If Yes 2

Score

Number of Prior Juvenile Delinquency or YO Adjudications (Violation/Misd/Felony) _____

None 0

1 1

2-3 2

4 3

5 or more 4

Score

Possession/Use of a Deadly Weapon or Dangerous Instrument _____

If Yes 1

Score

Injury to Victim _____

If Yes 2

Score

Presumptive Disposition

Total Score

8-14 points: Non-Prison

15 or more points: Prison

INSTRUCTIONS - - Property “A” Prison Sentence Length Worksheet

The Case Information and Sentencing Factors section of this worksheet must be completed prior to sentencing.

1. Case Information Section

Enter the Defendant’s name and Case Number even if it has already been entered on the In/Out worksheet.

2. Sentencing Factors Section

Complete prior to sentencing.

3. Most Serious Conviction Offense - The scorer should select only the most serious offense being sentenced at the current sentencing event. See the General Instructions.

4. Number of Additional Felony Convictions (Including Counts) - The scorer should total all offenses being sentenced other than the most serious offense being sentenced at the present time. In the event of a multi-count indictment, all counts in which the defendant was found guilty or entered a guilty plea should be counted the same as separate convictions. This does not include prior convictions - they are counted elsewhere.

5. Number of Prior Adult Felony Convictions - Count all felony convictions that occurred prior to the arrest date(s) of the offense(s) being sentenced at the current sentencing event.

6. Number of Prior Adult Felony Property Convictions - Count only the number of felony property convictions that occurred prior to the arrest date(s) of the offense(s) being sentenced at the current sentencing event.

7. Prior Incarceration with Unsuspended Sentence Imposed of 1 Year or More - Count prior prison, jail, Department of Corrections/community corrections, and YO and Juvenile Delinquency sentences where the non-suspended time imposed was one year or greater. Count only sentences that occurred prior to the arrest date(s) of the offense(s) being sentenced.

8. Prior Probation or Parole Revocation - Count probation or parole revocations that occurred prior to the arrest date(s) of the offense(s) being sentenced at the current sentencing event. Only felony probation revocations should be scored.

9. Possession/Use of a Deadly Weapon or a Dangerous Instrument and/or Injury to Victim - Count this if the offender used or brandished a deadly weapon or dangerous instrument. This factor should not be counted if the deadly weapon or dangerous instrument is merely “loot” or proceeds of a sale. There should be a connection (other than the mere possession of the deadly weapon or dangerous instrument) between the presence of the deadly weapon (or dangerous instrument) and the commission of any offense(s) being sentenced at the current sentencing event for this factor to be scored. For the purposes of completing the worksheets, a deadly weapon or dangerous instrument shall be defined pursuant to Sections 13A-1-2 and 13A-11-72.

Count this factor if a victim suffered physical injury or serious physical injury during the commission or flight from the offense. For the purposes of completing the worksheet physical injury shall be defined pursuant to Section 13A-1-2 (12), Code of Alabama 1975 and serious physical injury shall be defined pursuant to Section 13A-1-2 (14), Code of Alabama 1975.

10. Acquired a Firearm During Offense – Count this if a firearm was acquired during the commission of the offense(s) being scored at the current sentencing event.

11. Prison Sentence Length Recommendation

Total Score – Total the scores from the Sentencing Factors Section.

12. Recommended Sentence Range - Go to the Drug Prison Sentence Length Ranges for Worksheet Table to convert the score into a sentence length recommendation. Record the recommended sentence range for the total sentence in the space identified as “straight”. Record the recommended split sentence range in the space provided. The sentence for the most serious offense must come from these recommended ranges to comport with the standards. Statutory enhancements, as they have been applied, have been factored into the sentence length table recommendations and should *not* be added.

13. Judges Signature or Initials

After the sentencing recommendations are completed and sentence has been imposed, the sentencing judge should sign or initial the worksheet to identify and acknowledge that the worksheet was reviewed and considered prior to the sentencing.

After sentencing, the completed worksheet must be filed with the court clerk and made a part of the record. The court clerk ~~to~~ shall forward a copy of this worksheet and the Prison In/Out worksheet, along with a copy of the Court’s final Sentencing Order, to the Alabama Sentencing Commission.

Departure Sentences

If the recommended sentence length is not followed, refer to the General Instructions III for procedures relating to departure sentences and requiring the finding of aggravating and/or mitigating circumstances.

Please Print Property "A" Prison Sentence Length Worksheet

Eff.10-1-2013

Defendant _____ Case No. _____

Most Serious Conviction Offense

Unauthorized Use/B&E Vehicle	32	Theft of Prop II, Receive Stolen Prop II	46
Possession/Use Credit/Debit Card	39	Theft of Prop I, Receive Stolen Prop I	58
Possession Forged Instrument II	42		
Forgery II	44		

Score

Number of Additional Felony Convictions (Including Counts)

None	0
1	5
2	10
3 or more	15

Score

Number of Prior Adult Felony Convictions

None	0	6	72
1	12	7	84
2	24	8	97
3	36	9	109
4	48	10 or more	121
5	60		

Score

Number of Prior Adult Felony Property Convictions

None	0
1	7
2	14
3	21
4	27
5 or more	34

Score

Prior Incarceration with *Unuspended* Sentence Imposed of 1 Year or More

If Yes	15
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Score

Prior Felony Probation or Parole Revocation

If Yes	7
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Score

Possession/Use of a Deadly Weapon/Dangerous Instrument or Injury to Victim

If Yes	37
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Score

Acquired a Firearm During Offense

If Yes	12
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Score

See Prison Sentence Length Table

Total Score

Presumptive Sentence Range _____ to _____ (straight) _____ to _____ (split)

Judge's Signature/Initial

Property "A" Prison Sentence Length Ranges for Worksheet

Time in Months

<u>Score</u>	<u>Total Sentence</u>			<u>Time to Serve On Split</u>		
	<u>Low</u>	<u>Mid</u>	<u>High</u>	<u>Low</u>	<u>Mid</u>	<u>High</u>
32	13	18	23	6	9	12
37	13	22	31	6	9	12
39	13	22	31	6	9	12
42	13	22	31	6	9	12
44	13	22	31	6	9	12
45	13	22	31	6	9	12
46	13	22	31	6	9	12
47	13	22	31	6	9	12
49	14	23	31	6	9	12
51	14	23	31	6	9	12
52	14	27	38	6	9	12
53	14	27	38	6	9	12
54	14	27	38	6	9	12
55	14	27	38	6	9	12
56	14	31	46	6	9	12
57	14	31	46	6	9	12
58	14	31	46	6	9	12
59	14	31	46	6	9	12
60	14	31	46	6	9	12
61	16	31	46	6	9	12
62	16	31	46	6	9	12
63	16	31	46	6	9	12
64	16	31	46	6	9	12
65	16	31	46	6	9	12
66	16	31	46	6	9	12
67	16	31	46	6	9	12
68	16	31	46	6	9	12
69	16	31	46	6	9	12
70	16	31	46	6	9	12
71	19	32	46	6	9	12
72	19	32	46	6	9	12
73	19	32	46	6	9	12
74	19	32	46	6	9	12
75	19	32	46	6	9	12
76	19	36	54	6	9	12
77	19	36	54	6	9	12
78	22	42	61	6	9	12
79	22	42	61	6	9	12
80	22	42	61	6	9	12
81	22	42	61	6	9	12
82	22	42	61	6	9	12
83	22	42	61	6	9	12
84	22	42	61	6	9	12
85	22	42	61	6	9	12
86	22	42	61	6	9	12
87	22	42	61	6	9	12
88	22	42	61	6	9	12

Score	Total Sentence			Time to Serve On Split		
	Low	Mid	High	Low	Mid	High
89	22	42	61	6	12	19
90	22	45	69	6	12	19
91	22	45	69	6	12	19
92	22	45	69	6	12	19
93	22	45	69	6	12	19
94	22	45	69	6	12	19
95	22	45	69	6	12	19
96	22	45	69	6	12	19
97	22	45	69	6	12	19
98	22	45	69	6	12	19
99	22	49	77	6	12	19
100	22	49	77	6	12	19
101	22	68	115	6	12	19
102	22	68	115	6	12	19
103	22	68	115	6	12	19
104	22	68	115	6	12	19
105	22	68	115	6	12	19
106	24	70	115	6	12	19
107	27	71	115	6	12	19
108	27	71	115	6	12	19
109	27	71	115	6	12	19
110	27	71	115	6	12	19
111	27	71	115	6	12	19
112	27	71	115	6	12	19
113	27	71	115	6	12	19
114	27	71	115	6	12	19
115	27	71	115	6	12	19
116	27	71	115	6	12	19
117	27	71	115	6	12	19
118	32	74	115	6	12	19
119	54	85	115	6	12	19
120	54	85	115	6	12	19
121	54	85	115	6	12	19
122	54	85	115	6	12	19
123	54	85	115	6	12	19
124	54	85	115	6	12	19
125	54	85	115	6	12	19
126	54	85	115	6	12	19
127	54	85	115	6	12	19
128	54	85	115	6	12	19
129	54	85	115	6	12	19
130	54	85	115	6	12	19
131	54	85	115	6	12	19
132	54	85	115	6	12	19
133	54	85	115	6	12	19
134	54	85	115	6	12	19
135	54	85	115	6	12	19
136	54	85	115	6	12	19
137	54	85	115	6	12	19
138	54	85	115	6	12	19

Score	Total Sentence			Time to Serve On Split		
	Low	Mid	High	Low	Mid	High
139	54	85	115	6	12	19
140	54	85	115	6	12	19
141	54	85	115	6	12	19
142	54	85	115	6	12	19
143	54	85	115	6	12	19
144	76	95	115	6	12	19
145	76	95	115	6	12	19
146	76	95	115	6	12	19
147	76	95	115	6	12	19
148	76	95	115	6	12	19
149	76	95	115	6	12	19
150	76	95	115	6	12	19
151	76	95	115	12	15	19
152	76	95	115	12	15	19
153	76	95	115	12	15	19
154	76	95	115	12	15	19
155	76	95	115	12	15	19
156	76	95	115	12	15	19
157	76	95	115	12	15	19
158	76	95	115	12	15	19
159	76	95	115	12	15	19
160	76	95	115	12	15	19
161	76	95	115	12	15	19
162	76	95	115	12	15	19
163	76	95	115	12	15	19
164	76	95	115	12	15	19
165	76	95	115	12	15	19
166	76	95	115	12	15	19
167	76	95	115	12	15	19
168	81	102	123	12	15	19
169	81	102	123	12	15	19
170	81	102	123	12	18	25
171	81	102	123	12	18	25
172	81	102	123	12	18	25
173	81	102	123	12	18	25
174	81	102	123	12	18	25
175	81	102	123	12	18	25
176	81	102	123	12	18	25
177	81	102	123	12	18	25
178	81	102	123	12	18	25
179	81	102	123	12	18	25
180	81	102	123	12	18	25
181	81	102	123	12	18	25
182	81	102	123	12	18	25
183	81	102	123	12	18	25
184	81	102	123	12	18	25
185	81	102	123	12	18	25
186	81	102	123	12	18	25
187	81	102	123	12	18	25
188	81	102	123	12	18	25

Score	Total Sentence			Time to Serve On Split		
	Low	Mid	High	Low	Mid	High
189	81	102	123	12	18	25
190	81	102	123	12	18	25
191	81	102	123	12	18	25
192	81	117	154	12	18	25
195	81	117	154	12	18	25
197	81	117	154	12	18	25
198	81	117	154	12	18	25
199	81	117	154	12	18	25
201	81	117	154	12	18	25
202	81	117	154	12	18	25
204	81	117	154	12	18	25
205	81	117	154	12	18	25
206	81	117	154	12	22	31
207	81	117	154	12	22	31
208	81	117	154	12	22	31
209	81	117	154	12	22	31
210	81	117	154	12	22	31
211	81	117	154	12	22	31
213	81	117	154	12	22	31
214	81	117	154	12	22	31
215	81	117	154	18	25	31
216	81	117	154	18	25	31
217	81	117	154	18	25	31
219	81	117	154	18	25	31
220	81	117	154	18	25	31
222	81	117	154	18	25	31
223	81	117	154	18	25	31
225	81	117	154	18	25	31
228	81	117	154	18	25	31
232	81	117	154	18	25	31
233	81	117	154	18	25	31
235	81	117	154	18	25	31
245	81	117	154	18	25	31
246	81	117	154	18	25	31
250	81	117	154	18	25	31
260	81	117	154	18	25	31
274	81	117	154	18	25	31
275	120	135	156	24	30	36
280	120	135	156	24	30	36
282	120	135	156	24	30	36
285	120	135	156	24	30	36
287	120	135	156	24	30	36
290	120	135	156	24	30	36
292	120	135	156	24	30	36
294	120	135	156	24	30	36
299	120	135	156	24	30	36
302	120	135	156	24	30	36
304	120	135	156	24	30	36
306	120	135	156	24	30	36
308	120	135	156	24	30	36

Score	Total Sentence			Time to Serve On Split		
	Low	Mid	High	Low	Mid	High
309	120	135	156	24	30	36
311	120	135	156	24	30	36
312	120	135	156	24	30	36
313	120	135	156	24	30	36
314	120	135	156	24	30	36
317	120	135	156	24	30	36
318	120	150	180	24	30	36
320	120	150	180	24	30	36
321	120	150	180	24	30	36
323	120	150	180	24	30	36
324	120	150	180	24	30	36
326	120	150	180	24	30	36
329	120	150	180	24	30	36
331	120	150	180	24	30	36
333	120	150	180	24	30	36
335	120	150	180	24	30	36
336	120	150	180	24	30	36
338	120	150	180	24	30	36
339	120	150	180	24	30	36
341	120	150	180	24	30	36
342	120	150	180	24	30	36
343	120	150	180	24	30	36
345	120	150	180	24	30	36
347	120	150	180	24	30	36
350	120	150	180	24	30	36
351	120	150	180	24	30	36
353	144	192	240	36	48	60
356	144	192	240	36	48	60
358	144	192	240	36	48	60
359	144	192	240	36	48	60
362	144	192	240	36	48	60
363	144	192	240	36	48	60
364	144	192	240	36	48	60
369	144	192	240	36	48	60
370	144	192	240	36	48	60
375	144	192	240	36	48	60
380	144	192	240	36	48	60
382	144	192	240	36	48	60
385	144	192	240	36	48	60
396	144	192	240	36	48	60
404	144	192	240	36	48	60
418	144	192	240	36	48	60