ALABAMA SENTENCING COMMISSION

Presumptive and Voluntary Sentencing Standards

Manual

Effective October 1, 2013

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ALABAMA SENTENCING COMMISSION

§ 12-25-1. Created.

There is created within the judicial branch as an agency of the Supreme Court the Alabama Sentencing Commission, hereinafter called the "commission."
(Act 2000-596, p. 1192, §1.)

§ 12-25-2. Purpose.

(a) The purposes of the commission shall be to review existing sentence structure, including laws, policies, and practices, and to determine and recommend to the Legislature and Supreme Court changes regarding the criminal code, criminal procedures, and other aspects of sentencing policies and practices appropriate for the state which:
(1) Secure the public safety of the state by providing a swift and sure response to the commission of crime.
(2) Establish an effective, fair, and efficient sentencing system for Alabama adult and juvenile criminal offenders which provides certainty in sentencing, maintains judicial discretion and sufficient flexibility to permit individualized sentencing as warranted by mitigating or aggravating factors, and avoids unwarranted sentencing disparities among defendants with like criminal records who have been found guilty of similar criminal conduct. Where there is disparity, it should be rational and not related, for example, to geography, race, or judicial assignment.
(3) Promote truth in sentencing, in order that a party involved in a criminal case and the criminal justice process is aware of the nature and length of the sentence and its basis.
(4) Prevent prison overcrowding and the premature release of prisoners.
(5) Provide judges with flexibility in sentencing options and meaningful discretion in the imposition of sentences.
(6) Enhance the availability and use of a wider array of sentencing options in appropriate cases.
(7) Limit the discretion of district attorneys in determining the charge or crime.
(b) In fulfilling its purposes, the commission shall be mindful of the purposes of sentencing that include, but are not limited to, all of the following:
(1) Protecting the public.
(2) Promoting respect for the law.
(3) Providing just and adequate punishment for the offense.
(4) Deterring criminal conduct.
(5) Imposing sanctions which are least restrictive while consistent with the protection of the public and the gravity of the crime.
(6) Promoting the rehabilitation of offenders.
(Act 2000-596, p. 1192, §2.)

§ 12-25-3. Membership.

(a) The commission shall consist of the following voting members:
(1) The Chief Justice of the Supreme Court, or at his or her designation, a sitting or retired judge, who shall serve as chair, or at his or her designation another member of the commission shall serve as chair.
(2) The Governor, or his or her designee.
(3) The Attorney General, or his or her designee.
(4) Three district attorneys appointed by the President of the Alabama District Attorneys' Association.
(5) Two circuit judges, active or retired, appointed by the President of the Alabama Association of Circuit Court Judges.
(6) A district judge, active or retired, appointed by the President of the Alabama Association of District Court Judges.

(7) Two victims of a violent felony or persons whose immediate family member was a victim of a violent felony, appointed by the Governor.
(8) The Chair of the House Judiciary Committee, or his or her designee who is a member of the House Judiciary Committee.
(9) The Chair of the Senate Judiciary Committee, or his or her designee who is a member of the Senate Judiciary Committee.
(10) A private attorney specializing in criminal defense appointed by the President of the Alabama Criminal Defense Lawyers' Association.
(11) A private attorney specializing in criminal law appointed by the President of the Alabama Lawyer's Association.
(12) A county commissioner appointed by the Governor.
(13) The Commissioner of the Department of Corrections, or his or her designee.
(14) The Chair of the Alabama Board of Pardons and Paroles, or his or her designee.
(15) A member of the academic community with a background in criminal justice or corrections policy appointed by the Chief Justice.
(16) A sheriff appointed by the Sheriff's Association.
(17) An active police officer appointed by the Association of Chiefs of Police.
(b)(1) Appointed members of the commission shall serve terms of four years and may be reappointed for a second term. Members of the commission who serve because of their public office or position shall serve only as long as they hold such office or position.
(2) A member appointed to fill a vacancy on the commission which occurs before the expiration of the term for which his or her predecessor was appointed shall serve only for the remainder of such term.
(3) The membership of the commission shall be inclusive and reflect the racial, gender, geographic, urban/rural, and economic diversity of this state.
(Act 2000-596, p. 1192, §3; Act 2012-473, §1.)

§ 12-25-4. Advisory council.

(a) An advisory council to the commission shall be established to advise and consult the commission on sentencing matters. The advisory council shall be composed of representatives from the various state and non-state agencies and organizations having an interest in or whose operations directly or indirectly impact upon the criminal justice system. Membership of the advisory council shall include:
(1) The Director of Public Safety, or his or her designee.
(2) The Director of the Department of Youth Services, or his or her designee.
(3) A sheriff appointed by the Alabama Sheriff's Association.
(4) A police chief appointed by the Alabama Association of Chiefs of Police.
(5) A director of a community corrections program appointed by the Chief Justice.
(6) A representative of a prison ministry organization, who is not employed by the state, appointed by the Commissioner of the Department of Corrections.
(7) A rehabilitated former prison inmate appointed by the Commissioner of the Department of Corrections.
(8) Additional advisory members appointed in the numbers and manner as the commission deems advisable.
(b)(1) Appointed members of the advisory council shall serve terms of four years and may be reappointed. Members of the advisory council who serve because of their public office or position shall serve only as long as they hold the office or position.
(2) A member appointed to fill a vacancy on the advisory council that occurs before the expiration of the term of his or her predecessor shall serve only for the remainder of the term.
(Act 2000-596, p. 1192, §4.)

§ 12-25-5. Compensation and expenses.

(a) Members of the commission and advisory council shall serve without compensation.
(b) Members of the commission and advisory council are entitled to reimbursement for expenses while on official business of the commission or attending its meetings. Expenses shall be paid as follows:
(1) The expenses of members who are legislators may be paid out of any funds appropriated to the Legislature or out of any funds appropriated for joint interim committees of the Legislature, but in the amounts as if they were performing legislative duties.
(2) The expenses of the members representing state or local government departments or agencies may be paid out of any funds available for travel in their respective departments or agencies.
(3) The expenses of the other members may be paid out of funds available to the commission for travel and shall be reimbursed in accordance with Sections 36-7-20 to 36-7-22, inclusive.
(Act 2000-596, p. 1192, §5.)

§ 12-25-6. Meetings.

(a) The commission shall meet quarterly at the State Capitol or at other places as is deemed necessary or convenient and at other times upon call of the chair. All meetings shall be open to the public. The advisory council shall convene at the discretion of the commission, but in any event shall meet jointly with the commission at least once annually.
(b) A majority of the members of the commission shall constitute a quorum for conducting business.
(c) Except as hereinafter provided, the commission shall act by affirmative vote of a majority of members present and voting.
(d) The commission will keep or cause to be kept a record of all transactions discussed or voted on by the commission.
(Act 2000-596, p. 1192, §6.)

§ 12-25-7. Executive committee.

The executive committee of the commission shall be composed of the chair and four other members selected by the commission and shall conduct business as authorized by the commission or as permitted in Section 12-25-12.
(Act 2000-596, p. 1192, §7.)

§ 12-25-8. Powers.

The commission shall have the power to perform the functions as necessary to carry out the purposes of this article and may delegate power to any member or designated person. The commission may do all of the following:
(1) Submit appropriation requests to the Legislature.
(2) Serve as an agency to apply for and receive grants, donations, or other monies from public or private sources and to coordinate and conduct studies in connection with any of its purposes and functions.
(3) Enter into and perform contracts, leases, cooperative agreements, and other transactions as may be necessary to fulfill the responsibilities of the commission, with any public agency, or with any person, firm, association, corporation, educational institution, or nonprofit organization.
(4) Accept voluntary and uncompensated services.
(5) Request information, data, and reports from any Alabama agency or judicial officer as the commission may from time to time require and as may be produced consistent with other law.
(6) Hold hearings, conduct fact finding tours, and call witnesses to assist the commission in fulfilling its responsibilities.
(7) Perform other functions as may be necessary to carry out this article.
(Act 2000-596, p. 1192, §8.)

§ 12-25-9. Duties.

The commission shall have the following responsibilities:
(1) To review state sentencing structure, including laws, policies, and practices, and recommend changes to the criminal code, criminal rules of procedure, and other aspects of sentencing necessary to accomplish the purposes and objectives of this article.
(2) To review the overcrowding problem in county jails, with particular emphasis on funding for the county jails and the proper removal of state prisoners from county jails pursuant to state law and state and federal court orders, and to make recommendations for resolution of these issues to the Governor, Legislature, Attorney General, and Judicial System Study Commission before the 2002 Regular Legislative Session.
(3) To make recommendations to the Governor, Legislature, Attorney General, and Judicial System Study Commission concerning the enactment of laws relating to criminal offenses, sentencing, and correctional or probation matters.
(4) To publish an annual report and other reports as the chair deems necessary.
(5) To serve as a clearinghouse for the collection, preparation, and dissemination of information on sentencing practices.
(6) To maintain and make available for public inspection records of actions taken by the commission.
(Act 2000-596, p. 1192, §9.)

§ 12-25-10. Comprehensive discretionary sentencing plan.

Before or during the 2003 Regular Legislative Session, the commission shall review the present sentencing structure, including laws, policies, and practices, and recommend for consideration in the 2003 Regular Session changes to the criminal code, criminal rules of procedure, and other aspects of sentencing necessary to accomplish a comprehensive discretionary sentencing plan for all felony offenses consistent with the purposes and objectives of this article.
(Act 2000-596, p. 1192, §10; Act 2002-503, p. 1304, §1.)

§ 12-25-11. Cooperation with commission.

Agencies of the state government shall cooperate with the commission as necessary for the commission to carry out its responsibilities. Upon the request of the commission, each agency and department of the state shall make its services, equipment, personnel, facilities, and information available to the greatest practicable extent to the commission in the execution of its functions without cost to the commission. The commission shall have access to all offender records maintained by other state departments and agencies, including, but not limited to, the Department of Corrections, the Board of Pardons and Paroles, the Administrative Office of Courts, and the Alabama Criminal Justice Information Center. All offender information received by the commission shall remain subject to the confidentiality requirements of the department or agency providing the information. The commission, however, may release non-identifying offender information for statistical and analysis purposes. When possible, information shall be provided to the commission electronically.
(Act 2000-596, p. 1192, §11; Act 2002-503, p. 1304, §1.)

§ 12-25-12. Director; employees.

(a) The Chief Justice shall appoint a director for the commission. The Chief Justice may also authorize other employee positions for the commission. The director and employees of the commission shall be paid from any funds appropriated to the commission and shall be employed in the same manner as employees of the Supreme Court.
(b) The executive committee of the commission may employ and fix the compensation of consultants and experts to assist the commission as may be necessary to carry out its responsibilities.
(Act 2000-596, p. 1192, §12.)

§ 12-25-30. Short title.

This article shall be known and may be cited as the Alabama Sentencing Reform Act of 2003.
(Act 2003-354, p. 948, §1.)

§ 12-25-31. Statement of purpose.

(a) It is essential that Alabama manage its criminal justice system in the manner best able to protect public safety and make the most effective and efficient use of correctional resources. Based on the findings and recommendations of the Alabama Sentencing Commission, the Legislature finds that all of the following are necessary to protect public safety by providing a fair, effective, and efficient criminal justice system:
(1) Voluntary sentencing standards used to guide judicial decision makers in determining the most appropriate sentence for convicted felony offenders.
(2) The abolition of traditional parole and good time credits for convicted felons.
(3) The availability of a continuum of punishment options.
(b) The Legislature further finds, based on the findings and recommendations of the sentencing commission, that subdivisions (1) to (3), inclusive, of subsection (a) are necessary to best achieve all of the following goals:
(1) Incapacitating through incarceration the most dangerous and violent offenders in the state.
(2) Eliminating unwarranted disparity in sentencing.
(3) Assuring truth-in-sentencing.
(4) Providing the most effective use of correctional resources.
(5) Assuring the greatest opportunity for victim restitution.
(6) Protecting against prison and jail overcrowding.
(7) Maintaining meaningful judicial discretion.
(Act 2003-354, p. 948, §2.)

§ 12-25-31.1. Legislative findings.

(a) The Legislature finds the Alabama Sentencing Commission has followed the directives of the Legislature in this article, to develop and recommend to the Legislature a discretionary sentencing structure designed to protect public safety by providing a fair, effective, and efficient criminal sentencing system for this state by doing all of the following:
(1) By developing a system of statewide voluntary sentencing standards and worksheets for use in felony cases for 26 felony offenses representing 87 percent of all felony convictions in Alabama over a five-year period.
(2) By taking into account historical sentencing data concerning time imposed and other factors that, after analysis of historical data, appear to be relevant in determining both the duration and disposition of sentences in the applicable felony cases.
(3) By basing the voluntary sentencing standards on historical sentencing practices adjusted to achieve sentencing goals as established in Rule 26 of the Alabama Rules of Criminal Procedure and Section 12-25-31.
(b) The Legislature further recognizes that the development of voluntary sentencing standards by the commission is and should be a continuous process and the commission has been directed to continue the development of the voluntary sentencing standards recommendations by collecting and analyzing sentencing data and incorporating a continuum of punishment options, as required by subdivision (1) of Section 12-25-33, and by identifying, testing, and recommending modifications of the initial voluntary sentencing standards and worksheets as may be necessary to accomplish the purposes and goals set out in this article and Rule 26 of the Alabama Rules of Criminal Procedure.
(Act 2006-312, p. 663, §1.)

§ 12-25-32. Definitions.

For the purposes of this article, the following terms have the following meanings:
(1) COMMISSION. The Alabama Sentencing Commission, established as a state agency under the Supreme Court by this chapter.
(2) CONTINUUM OF PUNISHMENTS. An array of punishment options, from probation to incarceration, graduated in restrictiveness according to the degree of supervision of the offender including, but not limited to, all of the following:
a. Active incarceration. A sentence, other than an intermediate punishment or unsupervised probation, that requires an offender to serve a sentence of imprisonment. The term includes time served in a work release program operated as a custody option by the Alabama Department of Corrections or in the Supervised Intensive Restitution program of the Department of Corrections pursuant to Article 7, commencing with Section 15-18-110, of Chapter 18 of Title 15.
b. Intermediate punishment. A sentence that may include assignment to any community based punishment program or may include probation with conditions or probation in conjunction with a period of confinement. Intermediate punishments include, but are not limited to, all of the following options:
1. A split sentence pursuant to Section 15-18-8.
2. Assignment to a community punishment and corrections program pursuant to the Alabama Community Punishment and Corrections Act or local acts.
3. Assignment to a community based manual labor work program pursuant to Sections 14-5-30 to 14-5-37, inclusive.
4. Intensive probation supervision pursuant to Section 15-22-56.
5. Cognitive and behavioral training.
6. Community service work.
7. County probation.
8. Day fines or means-based fines.
9. Day reporting.
10. Drug or alcohol testing.
11. Drug court programs.
12. Educational programs.
13. Electronic monitoring.
14. Home confinement or house arrest.
15. Ignition interlock.
16. Intermittent confinement.
17. Jail and prison diversion programs.
18. Job readiness and work.
19. Literacy and basic learning.
20. Pretrial diversion programs.
21. Residential drug treatment.
22. Residential community based punishment programs in which the offender is required to spend at least eight hours per day, or overnight, within a facility and is required to participate in activities such as counseling, treatment, social skills training, or employment training, conducted at the residential facility or at another specified location.
23. Restorative justice.
(i) Victim impact panels.
(ii) Voluntary victim offender conferencing.
(iii) Voluntary victim offender mediation.
24. Self-help groups.
25. Sobrietor or breath alcohol remote monitoring.
26. Substance abuse education and treatment.
27. Treatment alternatives to street crime (TASC).

28. Voice recognition, curfew restriction, or employment monitoring.
29. Work release, other than those work release programs operated by the Alabama Department of Corrections, as a custody option.
c. Unsupervised probation. A sentence in a criminal case that includes a period of probation but does not include supervision, active incarceration, or an intermediate punishment.
d. Post-release supervision. A mandatory period of supervision following sentences of active incarceration as defined in paragraph a. that may include one or more intermediate punishment options.
(3) COURT. Unless otherwise stated, a district or circuit court exercising jurisdiction to sentence felony offenders.
(4) FELONY OFFENSE. A noncapital felony offense.
(5) INITIAL VOLUNTARY STANDARDS. The voluntary sentencing standards effective on October 1, 2006. These standards were based on statewide historic sentences imposed with normative adjustments designed to reflect current sentencing policies.
(6) NONVIOLENT OFFENSE. All offenses which are not violent offenses.
(7) NONVIOLENT OFFENDER. Any offender who does not qualify as a violent offender pursuant to subdivision (12).
(8) OFFENDER. A person convicted of a noncapital felony offense.
(9) RELEASE AUTHORITY. Any public official, agency, or other entity authorized by law to release a sentenced offender from incarceration or other conditions of a sentence.
(10) RISK ASSESSMENT. An instrument designed to assess an offender's relative risk for reoffending.
(11) TRUTH-IN-SENTENCING STANDARDS. The sentencing standards that are scheduled to become effective October 1, 2020. These standards shall be based on statewide historic time served for offenses with adjustments designed by the commission to reflect current sentencing policies.
(12) UNDER SUPERVISION. All offenders under the supervision of any criminal justice agency or program including, but not limited to, any of the following entities:
a. The Alabama Department of Corrections.
b. State or county probation offices.
c. Community corrections programs pursuant to Alabama Community Corrections Act.
d. Jails.
e. State or local law enforcement agencies.
f. Any court.
(13) VIOLENT OFFENDER. A violent offender is an offender who has been convicted of a violent offense, or who is determined by the trial court judge or a release authority to have demonstrated a propensity for violence, aggression, or weapons related behavior based on the criminal history or behavior of the offender while under supervision of any criminal justice system agency or entity.
(14) VIOLENT OFFENSE.
a. For the purposes of this article, a violent offense includes each of the following offenses, or any substantially similar offense to those listed in this subdivision created after June 20, 2003:
1. Capital murder pursuant to Sections 13A-6-2 and 13A-5-40.
2. Murder pursuant to Section 13A-6-2.
3. Manslaughter pursuant to Section 13A-6-3.
4. Criminally negligent homicide pursuant to Section 13A-6-4.
5. Assault I pursuant to Section 13A-6-20.
6. Assault II pursuant to Section 13A-6-21.
7. Compelling street gang membership pursuant to Section 13A-6-26.
8. Kidnapping I pursuant to Section 13A-6-43.
9. Kidnapping II pursuant to Section 13A-6-44.
10. Rape I pursuant to Section 13A-6-61.
11. Rape II pursuant to Section 13A-6-62.
12. Sodomy I pursuant to Section 13A-6-63.
13. Sodomy II pursuant to Section 13A-6-64.

14. Sexual torture pursuant to Section 13A-6-65.l.
15. Sexual abuse I pursuant to Section 13A-6-66.
16. Enticing a child to enter a vehicle for immoral purposes pursuant to Section 13A-6-69.
17. Stalking pursuant to Section 13A-6-90.
18. Aggravated stalking pursuant to Section 13A-6-91.
19. Soliciting a child by computer pursuant to Section 13A-6-110.
20. Domestic violence I pursuant to Section 13A-6-130.
21. Domestic violence II pursuant to Section 13A-6-131.
22. Burglary I pursuant to Section 13A-7-5.
23. Burglary II pursuant to Section 13A-7-6.
24. Burglary III pursuant to Section 13A-7-7.
25. Arson I pursuant to Section 13A-7-41.
26. Criminal possession of explosives pursuant to Section 13A-7-44.
27. Extortion I pursuant to Section 13A-8-14.
28. Robbery I pursuant to Section 13A-8-41.
29. Robbery II pursuant to Section 13A-8-42.
30. Robbery III pursuant to Section 13A-8-43.
31. Pharmacy robbery pursuant to Section 13A-8-51.
32. Terrorist threats pursuant to Section 13A-10-15.
33. Escape I pursuant to Section 13A-10-31.
34. Promoting prison contraband I pursuant to Section 13A-10-36, involving a deadly weapon or dangerous instrument.
35. Intimidating a witness pursuant to Section 13A-10-123.
36. Intimidating a juror pursuant to Section 13A-10-127.
37. Treason pursuant to Section 13A-11-2.
38. Discharging a weapon into an occupied building, dwelling, automobile, etc., pursuant to Section 13A-11-61.
39. Promoting prostitution I pursuant to Section 13A-12-111.
40. Production of obscene matter involving a minor pursuant to Section 13A-12-197.
41. Trafficking pursuant to Section 13A-12-231.
42. Child abuse pursuant to Section 26-15-3.
43. Elder abuse pursuant to Section 38-9-7.
44. Terrorism pursuant to Section 13A-10-152.
45. Hindering prosecution for terrorism pursuant to Section 13A-10-154.
46. Any substantially similar offense for which an Alabama offender has been convicted under prior Alabama law or the law of any other state, the District of Columbia, the United States, or any of the territories of the United States.

b. The basis for defining these offenses as violent is that each offense meets at least one of the following criteria:
1. Has as an element, the use, attempted use, or threatened use of a deadly weapon or dangerous instrument or physical force against the person of another.
2. Involves a substantial risk of physical injury against the person of another.
3. Is a nonconsensual sex offense.
4. Is particularly reprehensible.

c. Any attempt, conspiracy, or solicitation to commit a violent offense shall be considered a violent offense for the purposes of this article.

d. Any criminal offense which meets the criteria provided in paragraph b. enacted after 2003.

(Act 2003-354, p. 948, §3; Act 2009-742, p. 2220, §1; Act 2012-473, §1.)

§ 12-25-33. Powers and duties of commission.

To achieve the goals recognized by the Legislature in Chapter 25 and Section 12-25-31, the commission shall:
(1) Develop, maintain, and modify as necessary a system of statewide voluntary sentencing standards for use in felony cases which shall take into account historical sentencing data, concerning time actually served for various felony offenses, sentences imposed for various felony offenses, and such other factors as appear historically relevant to determining both the duration and disposition of sentences in felony cases. The standards shall recognize a continuum of punishments in recommending the disposition of sentences.
(2) Educate judges, prosecutors, defense attorneys, victim's service officers, community corrections officials, probation officers, and other personnel, where appropriate, in the use of the voluntary sentencing standards and worksheets.
(3) Develop, distribute, and periodically update sentencing worksheets for the use of courts in determining both the duration and disposition of sentences in felony cases.
(4) Prepare, distribute, and periodically update a form for sentencing courts to record the sentence of the offender and the reason or reasons for any departure from the voluntary sentencing standards.
(5) Develop and distribute voluntary standards for sentencing courts that include recommended intermediate punishment options.
(6) Evaluate risk assessment instruments used by the Board of Pardons and Paroles, the Department of Corrections, and other agencies and entities and assist in developing an offender risk assessment instrument for use in felony cases, based on a study of Alabama felons, that is intended to be predictive of the relative risk that a felon will become a threat to public safety.
(7) Collect, analyze, and maintain data regarding sentencing practices in felony cases, including the use of the voluntary sentencing standards, and recommend changes or modifications of the standards and worksheets as the commission deems appropriate.
(8) Collect and analyze information including sentencing data, crime trends, and existing correctional resources to enable the commission to make recommendations regarding projected correctional resource needs and to make recommendations to the Governor, the Legislature, the Chief Justice, and the Attorney General in the annual report of the commission. This annual report should also include data showing the impact of the initial voluntary standards and the truth-in-sentencing standards by race, gender, and location of the offender.
(9) Study felony statutes in the context of sentencing patterns as they evolve and make recommendations for the revision of criminal offense statutes to provide more specific offense definitions and more narrowly prescribed ranges of punishment.
(10) Study bills introduced in the Legislature affecting criminal laws and procedure and prepare impact statements of proposed legislation on Alabama's criminal justice system, including the prison population.
(11) Report upon its work and recommendations annually to the Governor, the Legislature, the Chief Justice, and the Attorney General.
(12) Perform such other functions as may be required by law or necessary to carry out the duties of the commission prescribed in this chapter and this article.
(Act 2003-354, p. 948, §4.)

§ 12-25-34. Development and adoption of the voluntary sentencing standards.

(a) Statewide voluntary sentencing standards shall be developed and presented to the Legislature in stages over a three-year period as follows:
(1) By July 31, 2003, the commission shall develop and distribute to all sentencing judges a reference manual analyzing historical sentencing practices by duration of sentence and disposition of felony offenders in Alabama. The reference manual shall indicate those types of offenders historically most likely to be sentenced to punishments other than active incarceration where alternatives to active incarceration are available.
(2) Concurrently with the development and distribution of the reference manual, the commission shall develop and begin testing worksheets and voluntary sentencing standards in selected circuits for selected felony offenses.
(3) The commission shall develop and present the initial voluntary sentencing standards to the Legislature before

or during the 2006 Regular Session. These standards shall be introduced in the 2006 Regular Session and shall become effective on October 1 following the 2006 Regular Session, if approved by an act of the Legislature passed during that session. The initial voluntary sentencing standards based on sentences imposed shall apply to convictions for felony offenses sentenced on or after October 1, 2006, and committed before the effective date of the voluntary truth-in-sentencing standards.
(4) The commission shall develop and present truth-in-sentencing standards to the Legislature before or during the 2020 Regular Session. These standards shall be introduced in the 2020 Regular Session and shall become effective on October 1 following the 2020 Regular Session, if approved by an act of the Legislature. The voluntary truth-in-sentencing standards shall apply only to felony offenses committed on or after the effective date of these standards.
(b) Recommended sentence ranges shall be established by standards that are based on historical sentencing practices, adjusted to achieve sentencing goals as established in Rule 26 of the Alabama Rules of Criminal Procedure, this chapter, and Section 12-25-31.
(c) Voluntary sentencing standards shall take into account and include statewide historically based sentence ranges, including all applicable statutory minimums and sentence enhancement provisions, including the Habitual Felony Offender Act, with adjustments made to reflect current sentencing policies. No additional penalties pursuant to any sentence enhancement statute shall apply to sentences imposed based on the voluntary sentencing standards.
(d) Commencing with the 2013 Regular Session, any modifications to the initial voluntary sentencing standards made by the commission shall be contained in the annual report presented to the Governor, the Legislature, the Chief Justice, and the Attorney General. An annual report containing proposed modifications shall be presented to the Governor, the Legislature, the Chief Justice, and the Attorney General at least forty-five days prior to each regular session of the Legislature. The modifications presented for nonviolent offenses shall become effective on October 1 following the legislative session in which the modifications were presented unless rejected by an act of the Legislature enacted by bill during the legislative session. The modifications presented for violent offenses shall become effective on October 1 following the legislative session in which the modifications were presented, if approved by an act of the Legislature enacted by bill during the legislative session in which the modifications were presented.
(Act 2003-354, p. 948, §5; Act 2006-312, p. 663, §3; Act 2009-742, p. 2220, §1; Act 2012-473, §1.)

§ 12-25-34.1. Approval of the initial voluntary sentencing standards.

The initial voluntary sentencing standards and the accompanying worksheets and instructions, as adopted by the Sentencing Commission on September 30, 2005, and filed with the Clerk of the Supreme Court, the Secretary of the Senate, and the Clerk of the House of Representatives, are approved for implementation effective on October 1, 2006, under the terms and conditions set out in Sections 12-25-34 and 12-25-35; provided however, that these standards shall not apply to any sex offense involving a victim under the age of 12.
(Act 2006-312, p. 663, §2.)

§ 12-25-34.2. Presumptive sentencing standards.

(a) For the purposes of this section, the following words shall have the following meanings:
(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 Section 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. A sentence which departs from the presumptive sentence recommendation as to the sentence range.
(10) VIOLENT OFFENSES. As defined in Section 12-25-32.
(b) The voluntary sentencing standards as provided for in Section 12-25-34, as applied to nonviolent offenses shall become presumptive sentencing standards effective October 1, 2013, to the extent the modification adopted by the Alabama Sentencing Commission become effective October 1, 2013. The standards shall be applied by the courts in sentencing subject to departures as provided herein. To accomplish this purpose as to the existing initial voluntary sentencing standards, the Alabama Sentencing Commission shall adopt modifications to the standards, worksheets, and instructions to the extent necessary to implement this provision including, but not limited to, defining aggravating and mitigating factors that allow for departure from the presumptive sentencing recommendations. The commission's modifications shall be presented to the Legislature in the commission's annual report within the first five legislative days of the 2013 Regular Session.
(c) Durational and dispositional departures from the presumptive sentencing standards shall be subject to appellate review. Along with the modifications provided for in subsection (b), the Alabama Sentencing Commission shall recommend a narrowly defined scope of appellate review applicable to departures from presumptive sentencing recommendations. The scope of appellate review shall become effective upon approval by an act of the Legislature enacted by bill.
(Act 2012-473, §2.)

§ 12-25-35. Use of voluntary sentencing standards.

(a) In felony cases, a probation officer, the district attorney, or some other person appointed at the discretion of the sentencing judge, and within the time frame set by the judge, shall, after notice to the offender or his or her attorney, present a completed appropriate voluntary sentencing standards worksheet to the sentencing judge for consideration.
(b) The trial court shall review the sentencing standards worksheet and consider the suitability of the applicable voluntary sentencing standards established pursuant to this article. In imposing sentence, the court shall indicate on the record that the worksheet and applicable sentencing standards have been reviewed and considered.
(c) In any felony case in which the trial court imposes a sentence that departs from the voluntary standards, and sentences outside the voluntary sentencing standards in accordance with existing law, the court may provide a brief written reason for the departure. Neither the departure nor the reason stated for the departure shall be subject to appellate review but shall be supplied to the commission for future consideration concerning modification of the voluntary sentencing standards and for statistical purposes only.
(d) Copies of the voluntary sentencing standards worksheets, prepared pursuant to this article, shall be subject to the same distribution requirements as presentence investigation reports.
(e) Following the imposition of a sentence in a felony case, the clerk of the court in which the case was disposed shall forward a copy of the sentencing order or orders, a copy of the voluntary sentencing standards worksheets prepared in the case, and a copy of any departure explanation to the commission within 45 days after the imposition of sentence.
(f) Failure to follow any or all of the provisions of this section, or failure to follow any or all of the provisions of this section in the prescribed manner, shall not be reviewable on appeal or the basis of any other post-conviction relief.
(Act 2003-354, p. 948, §6.)

PRESUMPTIVE TAB

PRESUMPTIVE SENTENCING STANDARDS

I. GENERAL INSTRUCTIONS - Introduction

The Sentencing Standards[1] – 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 form[3] by either:

E-mail: sentencing.commission@alacourt.gov;
Fax: (334) 954-5201;
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 Presumptive Sentencing 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.

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

Drug 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	*Prison (unsuspended sentence)*
Probation	Department of Corrections (prison)
Community Corrections	Community Corrections
County Jail / Work Release	Split to serve incarceration in ADOC or Community Corrections
Reverse Split	
Split sentence with a suspended split	

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.
Additional Cases – 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_____	Additional Cases _____

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

Step C - Prison In/Out Worksheet Presumptive Disposition:

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 Presumptive Disposition **Total Score** ☐

1-7 points: Non-Prison 8 or more points: Prison

Property "A" In/Out 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.

Step C1

See Prison Sentence Length Table **Total Score** ☐

Step C3 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.

	Total Sentence			Time to Serve On Split		
Score	**Low**	**Mid**	**High**	**Low**	**Mid**	**High**
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.

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 a 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 a 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 **1. Case Information Section**
Complete prior to sentencing. See the General Instructions to complete this section.

2 **2. Sentencing Factors Section**
Complete prior to sentencing.

3 **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 **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 **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 **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 at the current sentencing event.

7 **7. Prior Felony 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 **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 **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 **10. Total Score** - Total the scores from the Sentencing Factors Section.

Presumptive Disposition

11 **11. Non-Prison**: **1-7 Points**
Circle "non-prison" as the presumptive disposition.

12 **12. Prison: 8 or more points**
Circle "prison" as the presumptive disposition.

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

Departure Sentences
If the presumptive 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

1 **Defendant** _____ **Case No.** _____
Judge _____ **Prosecutor** _____
Probation Officer _____ **Defense Attorney** _____
2 **Worksheet Preparer, Title** _____ **Additional Cases** _____

3 **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 1st	8
Manufacturing Controlled Substance 2nd	5	A/S/C Manufacturing Controlled Substance 1st	8
A/S/C Manufacturing Controlled Substance 2nd	5		

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

Score ☐

4 **Number of Prior Adult Felony Convictions**

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

Score ☐

5 **Number of Prior Adult Convictions for Misdemeanors or Violations**

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

Score ☐

6 **Prior Incarceration with *Unsuspended* Sentence Imposed of 1 Year or More**

If Yes 3

Score ☐

7 **Prior Felony Probation or Parole Revocation**

If Yes 1

Score ☐

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

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

Score ☐

9 **Possession/Use of a Deadly Weapon or Dangerous Instrument**

If Yes 2

Score ☐

Presumptive Disposition

10 **Total Score** ☐

11 **1-7 points: Non-Prison**

12 **8 or more points: Prison**

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

INSTRUCTIONS - - Drug Prison Sentence Length Worksheet

1

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

2. Sentencing Factors Section
Complete prior to sentencing.

3

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

4. Number of Additional Felony Convictions (Including Counts) - The preparer 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

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

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

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 at the current sentencing event.

8

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

9

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

10

10. Judge's Signature or Initials
After the sentencing worksheets 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 to the Alabama Sentencing Commission a copy of this worksheet and the Prison In/Out worksheet, along with a copy of the Court's final Sentencing Order after grant or denial of probation.

Departure Sentences
If the presumptive 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

1 **Defendant** _____ **Case No.** _____

2

3 **Most Serious Conviction Offense** Please circle one *offense*

Felony DUI or Possession of Marihuana	42	Manufacturing Controlled Substance 2nd	105
A/S/C Possession of Marihuana	42	A/S/C Manufacturing Controlled Substance 2nd	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 1st	286
A/S/C Sale/Distribution of Marihuana (other than to minor)	84	A/S/C Manufacturing Controlled Substance 1st	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 ☐

4 **Number of Additional Felony Convictions (Including Counts)**

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

Score ☐

5 **Number of Prior Adult Felony Convictions**

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

Score ☐

6 **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 ☐

7 **Prior Incarceration with *Unsuspended* Sentence Imposed of 1 Year or More**

If Yes ..... 14 **Score** ☐

See Prison Sentence Length Table

8 **Total Score** ☐

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

10 **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

	Total Sentence			Time to Serve On Split		
Score	**Low**	**Mid**	**High**	**Low**	**Mid**	**High**
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

	Total Sentence			Time to Serve On Split		
Score	**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

	Total Sentence			Time to Serve On Split		
Score	**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.

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 **1. Case Information Section**
Complete prior to sentencing. See the General Instructions to complete this section.

2 **2. Sentencing Factors Section**
Complete prior to sentencing.

3 **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 **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 **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 **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 **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 at the current sentencing event.

8 **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 at the current sentencing event.

9 **9. Prior Felony 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 **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 **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 **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 **13. Total Score** - Total the scores from the Sentencing Factors Section.

Presumptive Disposition

14 **14. Non-Prison**: **8-14 Points**
Circle "non-prison" as the presumptive disposition.

15 **15. Prison: 15 or more points**
Circle "prison" as the presumptive disposition.

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

Departure Sentences
If the presumptive 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

Eff.10-1-2013

1 **Defendant** _____ **Case No.** _____
Judge _____ **Prosecutor** _____
Probation Officer _____ **Defense Attorney** _____
Worksheet Preparer, Title _____ **Additional Cases** _____

2

3 **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 ☐

4 **Number of Prior Adult Felony Convictions**

None	0
1-2	1
3-4	2
5 or more	3

Score ☐

5 **Number of Prior Adult Convictions for Same Felony**

None	0
1	1
2	2
3-4	3
5 or more	4

Score ☐

6 **Number of Prior Adult Convictions for Misdemeanors or Violations**

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

Score ☐

7 **Prior Incarceration with *Unsuspended* Sentence Imposed of 1 Year or More**

If Yes ..... 6 **Score** ☐

8 **Prior Incarceration with *Unsuspended* Sentence Imposed of Less Than 1 Year**

If Yes ..... 3 **Score** ☐

9 **Prior Felony Probation or Parole Revocation**

If Yes ..... 2 **Score** ☐

10 **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 ☐

11 **Possession/Use of a Deadly Weapon or Dangerous Instrument**

If Yes ..... 1 **Score** ☐

12 **Injury to Victim**

If Yes ..... 2 **Score** ☐

13 **Total Score** ☐

Presumptive Disposition

14 **8-14 points: Non-Prison**

15 **15 or more points: Prison**

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

INSTRUCTIONS - - Property "A" Prison Sentence Length Worksheet

1 **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 **2. Sentencing Factors Section**
Complete prior to sentencing.

3 **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 **4. Number of Additional Felony Convictions (Including Counts) -** The preparer 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 **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 **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 **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 at the current sentencing event.

8 **8. Prior Felony 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 **9. Possession/Use of a Deadly Weapon or a Dangerous Instrument and/or Injury to Victim –**
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.

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

12 **12. Presumptive Sentence Range -** Go to the Property Prison Sentence Length Ranges for Worksheet Table to convert the score into a presumptive sentence length. Record the presumptive sentence range for the total sentence and split sentence in the spaces identified as "straight" and "split". The sentence for the most serious offense must come from these presumptive ranges to comport with the standards. Statutory enhancements, as they have been applied, have been factored into the sentence length table and should *not* be added.

13 **13. Judge's Signature or Initials**
After the sentencing worksheets 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 shall forward to the Alabama Sentencing Commission a copy of this worksheet and the Prison In/Out worksheet, along with a copy of the Court's final Sentencing Order after grant or denial of probation.

Departure Sentences
If the presumptive 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.

Property "A" Prison Sentence Length Worksheet

Eff.10-1-2013

1 **Defendant** _____ **Case No.** _____

2

3 **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 ☐

4 **Number of Additional Felony Convictions (Including Counts)**

None	0
1	5
2	10
3 or more	15

Score ☐

5 **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 ☐

6 **Number of Prior Adult Felony Property Convictions**

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

Score ☐

7 **Prior Incarceration with *Unsuspended* Sentence Imposed of 1 Year or More**

If Yes 15

Score ☐

8 **Prior Felony Probation or Parole Revocation**

If Yes 7

Score ☐

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

If Yes 37

Score ☐

10 **Acquired a Firearm During Offense**

If Yes 12

Score ☐

See Prison Sentence Length Table

11 **Total Score** ☐

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

13 **Judge's Signature/Initial** _____

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

Property "A" Prison Sentence Length Ranges for Worksheet

Time in Months

	Total Sentence			Time to Serve On Split		
Score	**Low**	**Mid**	**High**	**Low**	**Mid**	**High**
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

	Total Sentence			Time to Serve On Split		
Score	**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

	Total Sentence			Time to Serve On Split		
Score	**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

	Total Sentence			Time to Serve On Split		
Score	**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

	Total Sentence			Time to Serve On Split		
Score	**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

VOLUNTARY TAB

VOLUNTARY SENTENCING STANDARDS

I. GENERAL INSTRUCTIONS - Introduction[5]

The Voluntary Sentencing Standards and Worksheets – A Structured Sentencing System

The Voluntary Sentencing Standards are:

- Voluntary and non-appealable;
- 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); § 12-25-2, Code of Alabama 1975.
- Created from historical sentencing data, reflecting the major factors considered in making sentencing decisions and the importance of those factors to each other;
- Include the historical application of Alabama's statutory sentence enhancements and mandatory minimums, except the sentences of life without parole and the child sexual offender laws;
- 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); and
- Designed to shorten sentence length recommendations for non-violent cases to alleviate overcrowding and to make room for violent offenders.

In addition, the Standards and Worksheets

- Standardize sentence recommendations for more informed and uniform sentencing practices and the elimination of unwarranted disparity;
- Allow judges to retain discretion in arriving at sentencing decisions;
- Make all mandatory minimums and sentence enhancements (except life without parole, and the child sex offender amendments) discretionary; and
- Address overcrowding by providing a mechanism for changing sentence recommendations to meet economic reality while preserving public safety.

[5] These Instructions are derived from the original 21 General Instructions rules adopted by the Alabama Sentencing Commission and approved by the Alabama Legislature in 2006 and can be found beginning on page 85.

The Voluntary Sentencing Standards consist of two sets of worksheets and prison sentence length tables that divide the covered offenses into two offense types designated property and personal offenses.

The property and personal offense types each contain an In/Out worksheet that recommends a sentence disposition and a Prison Sentence Length worksheet that recommends a sentence length range.

Each type of worksheet relies on a sentence length table from which a sentence range is recommended based on Prison Sentence Length Worksheet score.

II. GENERAL INSTRUCTIONS - Administrative Procedures § 12-25-35

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(s) obtains the necessary information needed to complete the worksheet; totals the scores; and determines the recommended sentence based on the worksheet scores, distributes the worksheets to the appropriate parties, and presents the completed recommendation to the sentencing judge.

Worksheet Distribution

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

The final worksheets showing not only the recommendations, but also the actual sentence and disposition of the sentence, must be given to the Court Clerk to forward to the Alabama Sentencing Commission.

Use of the Worksheets by the Sentencing Judge

Prior to sentencing, the trial court shall review the sentencing standards worksheets and consider the suitability of the applicable voluntary sentencing recommendations. In imposing sentence, the court shall indicate on the record that the worksheets and applicable sentencing standards have been reviewed and considered.
§ 12-25-35 (b)

After sentencing, the sentencing judge shall give the completed worksheets showing sentence recommendations, the actual sentence, and if applicable, the reasons for departure, to the Court Clerk who shall forward a copy to the Alabama Sentencing Commission. § 12-25-35 (e)

Departure from the Worksheet Recommendations

The worksheets are designed with the expectation they will provide appropriate recommendations in covered cases. The sentencing judge may choose to sentence any covered case outside the standards in accordance with existing law.

When the trial court imposes a sentence that departs from the voluntary standards, the Alabama Sentencing Commission requests that the court provide a brief written reason for the departure. This information will be used by the Commission in evaluating the standards and determining where changes should be made. Providing this information gives each sentencing judge an opportunity to have input into future changes to the standards.
§ 12-25-35 (c)

Neither the departure nor the reason stated for the departure from a voluntary sentencing standard shall be subject to appellate review, but is to be provided to the Alabama Sentencing Commission for future consideration concerning modification of the voluntary sentencing standards and for statistical purposes only. § 12-25-35 (c)

Responsibilities of the Court Clerk

Following the imposition of a sentence in a felony case, the clerk of the court in which the case was disposed shall forward a copy of the sentencing order or orders, a copy of the voluntary sentencing standards worksheets prepared in the case, and a copy of any departure explanation to the commission within 45 days after the imposition of sentence. § 12-25-35 (e)

These documents must be sent in paper form[6] by either:

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

The Court Clerk should ensure that the actual sentence recorded on the worksheets is the same as reflected on the case action summary.

Appellate Review

Failure to follow the voluntary standards, or failure to follow any or all of the standards in the prescribed manner, shall not be reviewable on appeal or serve as the basis of any other post-conviction relief. § 12-25-35 (f)

Judicial Disagreement with Worksheet Scoring and Instructions

To comply with the sentencing standards, the sentence imposed must be imposed according to the Instructions in this manual. Any sentence imposed outside the standards must be in accordance with existing law, exclusive of the standards. If a judge disagrees with the standards recommendation or weighting of factors and chooses to disregard the recommendation or the weighting of any factor as set out in the worksheets or worksheet instructions, the only option is to sentence under existing law exclusive of the standards recommendation. The judge's disagreement may be properly expressed by stating the disagreement as a reason for departure on the worksheets.

[6] 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 Voluntary Sentencing 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	Property Worksheets
Assault I §13A-6-20	Burglary I §13A-7-5
Assault II §13A-6-21	Burglary II §13A-7-6
Manslaughter §13A-6-3	Burglary III §13A-7-7
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	

Worksheets are Offense Specific

Worksheets are intended for use only when the offense sentenced is a worksheet offense. They are not intended to provide guidance when sentencing similar crimes. The factors on the worksheets have been statistically derived specifically for the listed offenses and may or may not be statistically significant in predicting sentencing outcomes for other offenses.

The Most Serious Offense

Worksheets must be completed and considered when the "most serious offense" at a sentencing event is a worksheet offense.

Sentencing Event

A sentencing event includes all convictions sentenced at the same time whether included as counts in one case or in several different cases.

Determining the Most Serious Offense at a Sentencing Event

Rule 1. Where two or more offenses at the same sentencing event are the same crime 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 different crime types (covered by different worksheets), the most serious offense is the offense with the highest number of points shown on the Prison Sentence Length worksheets. The preparer may complete both worksheets and select the offense that results in the most severe penalty.

Example:

- If a defendant is being sentenced for Assault II (72 points) and Burglary II (70 points) at the same sentencing event, the worksheet preparer should first complete the Personal Sentencing Worksheets to determine the recommended sentencing outcome. This is because Assault II has the highest point value in the first section of the "personal" sentence length worksheet. Then, the preparer could elect to score Burglary II as the primary offense on the 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, the worksheet offense is the most serious offense. The other offense should be scored as an additional offense where appropriate.

Example:

- The maximum statutory penalty for Criminal Mischief I (with no prior felony convictions) is 10 years and the maximum statutory penalty for Assault II (with no prior felony convictions) is 10 years. If both are being sentenced at the same event, the worksheet preparer should score the personal worksheets for Assault II. This is because Assault II is covered by the worksheets and Criminal Mischief I is not.

- In the above scenario, if worksheet offense was a drug or property offense, the non-worksheet offense(s) should be scored under the "Number of Additional Felony Convictions (Including Counts)" section of the Sentence Length Worksheets.

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, the non-worksheet offense is the most serious offense and the voluntary Sentencing Standards are not applicable.

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 even in the recommendation is "non-prison."

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 or proof requirement. When meeting the burden or 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. All other pardons –e.g. those to restore voting rights – should not be excluded.

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 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.

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 cases, worksheets are not required until a sentence is imposed. Some courts impose a sentence as soon as an offender enters the specialty 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 program. In these courts, the worksheets may be filled out any time prior to sentencing, giving sufficient notice to all parties and the judge.

Sentence Lengths

Where Prison is the sentence disposition on the In/Out Worksheet, the prison sentence must be chosen from within the recommended range for the corresponding score on the Prison Sentence Length Ranges Table for the most serious offense worksheet offense type.

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

When choosing a sentence from the recommended sentence range, the sentence chosen must not be less than the statutory sentences specified in Section 13A-5-6(a)(1)-(3), provided, however, the minimum sentence may still be "split" pursuant to Section 15-18-8.

1. For a Class A felony, the minimum sentence imposed must be at least 120 months.
2. For a Class B felony, the minimum sentence imposed must be at least 24 months.
3. 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.

Sentence lengths recommended on the worksheets are intended to give guidance in imposing prison sentences. They are not intended to suggest terms of probation. Compliance with the Voluntary Sentencing Standards occurs when the sentence conforms to the recommendation on the In/Out Worksheet and,

where prison is recommended, the prison sentence length conforms to the recommended sentence range on the Prison Sentence Length Worksheet, or

where non-prison is recommended, the total suspended sentence length conforms to either the recommended sentence range on the Prison Sentence Length Worksheet or any other sentence length authorized by law.

In other words, where the In/Out Worksheet recommendation is non-prison, the total suspended sentence need not conform to the prison sentence length recommendation. The length of probation terms authorized by law is not affected by the Voluntary Sentencing Standards.

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 voluntary sentencing standards.

Imposition of Sentence

Once a sentence has been selected from the recommended Prison Sentence Length Range Table, the sentencing judge may determine how that sentence shall be imposed for that sentencing event.

Example:
If a defendant is sentenced for three felonies at one sentencing event and the chosen sentence is 360 months (30 years) the judge may impose the sentence as:

- 360 months for each conviction to run concurrently;
- 120 months for each conviction to run consecutively; or
- one 240 month sentence and two 60 month sentences to run consecutively.

IV. GENERAL INSTRUCTIONS - Mechanics of Completing the Worksheets

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.

PRISON IN/OUT WORKSHEET

Step A - Complete the case information at the top of the In/Out Worksheet and the Prison Sentence Length 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.
Judge – fill in the name of the judge presiding over sentencing in the case.
Prosecutor – fill in the name of the attorney representing the state 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.
Additional Cases – 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_____	Additional Cases _____

Step B – Complete the Sentencing Factors Section, adding the score for each section. See the instructions for each worksheet.

Step C – Prison In/Out Worksheet:

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.

Property In/Out Recommendation **Total Score** ☐

8-14 points: Non-Prison 15 or more points: Prison

Personal In/Out Recommendation **Total Score** ☐

1-7 points: Non-Prison 8 or more points: Prison

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, adding the score for each section. See the instructions for each worksheet.

Step C - Prison Sentence Length Worksheet:

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.

Step D - If the sentence imposed does not fall within the recommended sentence ranges, a departure occurs. If a departure from the Sentence Length range occurs, record the reason for the departure.

Step C1

Prison Sentence Length Recommendation **Total Score** ☐

Step C3 Recommended Sentence Range ___ to ___ (straight) ___ to ___ (split)

Step D Reason did not accept sentence length recommendation

_____

PRISON SENTENCE LENGTH RANGES FOR WORKSHEET

This table contains recommended sentence length ranges from which a sentence imposed under the Voluntary Sentencing Standards is chosen.

The table is divided into three sections or column groups.

1. The first column is a list of scores in actual cases analyzed by the Alabama Sentencing Commission in developing the worksheets and standards.
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) list the recommended sentence ranges for the incarceration portion of a split sentence in the event the judge chooses to impose a split sentence.

	Total Sentence			Time to Serve On Split		
Score	**Low**	**Mid**	**High**	**Low**	**Mid**	**High**
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 splits remains a matter entirely within the discretion of the sentencing judge.

Step A - Find the score that matches or, if no match is found, the next lower score corresponds to the Total Score on the Prison Sentence Length Worksheet.

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

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

Record the recommended sentence ranges on the Prison Sentence Range Worksheet.

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 Personal offenses listed below are covered by the Sentencing Standards subject to Voluntary Sentencing Recommendations.

Most Serious Offense at Conviction Ranking

Murder
§13A-6-2
728 points

Rape I
§13A-6-61
386 points

Robbery I
§13A-8-41
374 points

Manslaughter
§13A-6-3
238 points

Sodomy I
§13A-6-63
235 points

Robbery II
§13A-8-42
173 points

Assault I
§13A-6-20
148 points

Rape II
§13A-6-62
129 points

Robbery III
§13A-8-43
89 points

Sodomy II
§13A-6-64
81 points

Assault II
§13A-6-21
72 points

INSTRUCTIONS - - Personal Prison In/Out Worksheet

1 **1. Case Information Section**
Complete prior to sentencing. See the General Instructions to complete this section.

2 **2. Sentencing Factors Section**
Complete prior to sentencing.

3 **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. *Note: Rape I or II or Sodomy I or II is not a worksheet offense if the victim of the offense is under the age of 12 years old.*

4 **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 **5. Prior Incarceration with Unsuspended Sentence Imposed of 1 Year or More -** Count prior prison, jail or Department of Corrections/community corrections 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.

6 **6. 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 the General Instructions.*

7 **7. Possession/Use of 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.

8 **8. Total Score** – Prior to sentencing, total the scores from the Sentencing Factors Section.

Recommendation Section

9 **9. Non-Prison**: **1-7 Points**
Circle "non-prison" as the voluntary disposition.

10 **10. Prison: 8 or more points**
Circle "prison" as the voluntary disposition.

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

Personal Prison In/Out Worksheet

1 **Defendant** _____ **Case No.** _____
Judge _____ **Prosecutor** _____
Probation Officer _____ **Defense Attorney** _____
Worksheet Preparer, Title _____ **Additional Cases** _____

2

3 **Most Serious Conviction Offense** — Please circle one *offense*

Assault II	1	Rape II, Sodomy II, Robbery II	5
Robbery III	3	Rape I, Sodomy I, Manslaughter, Robbery I	8
Assault I	4	Murder	10

Score ☐

4 **Number of Prior Adult Felony Convictions**

None	0
1	2
2	3
3	5
4	6
5 or more	8

Score ☐

5 **Prior Incarceration with *Unsuspended* Sentence Imposed of 1 Year or More**

If Yes 1

Score ☐

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

None	0
1-2	1
3-4	2
5 or more	3

Score ☐

7 **Possession/Use of Deadly Weapon or Dangerous Instrument**

If Yes 4

Score ☐

Recommendation

8 **Total Score** ☐

9 **1-7 points: Non-Prison**

10 **8 or more points: Prison**

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

INSTRUCTIONS - - Personal Prison Sentence Length Worksheet

1 **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 **2. Sentencing Factors Section**
Complete prior to sentencing.

3 **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 **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 **5. Number of Prior Incarcerations with Unsuspended Sentence Imposed of 1 Year or More -** Count prior prison, jail or Department of Corrections/community corrections 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.

6 **6. Prior Incarceration with Unsuspended Sentence Imposed of Less Than 1 Year -** Count prior prison, jail or Department of Corrections/community corrections 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.

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

8 **8. Recommended Sentence Range -** Go to the Drug Prison Sentence Ranges for Worksheet Table to convert the score into a sentence length recommendation. Record the recommended sentence ranges for the total sentence and split sentence in the spaces identified as "straight" and "split". The sentence for the most serious offense must come from the sentence length tables 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.

9 **9. Reason Recommendation Not Accepted** – If the sentencing judge decides that no sentence length recommendation fits this case, the judge or another person designated by the judge, is asked to give a reason why the recommendation was not followed. The reason given should be stated here and will be used by the Sentencing Commission to evaluate the effectiveness of the standards.

Personal Prison Sentence Length Worksheet

1 **Defendant** _____ **Case No.** _____

2

3 **Most Serious Conviction Offense**

Assault II	72	Sodomy I	235
Sodomy II	81	Manslaughter	238
Robbery III	89	Robbery I	374
Rape II	129	Rape I	386
Assault I	148	Murder	728
Robbery II	173		

Score ☐

4 **Number of Prior Adult Felony Convictions**

None	0
1	19
2	37
3	56
4	75
5	93
6	112
7	130
8	149
9	168
10 or more	186

Score ☐

5 **Number of Prior Incarcerations with *Unsuspended* Sentence Imposed of 1 Year or More**

None	0
1	51
2	101
3	152
4	202
5 or more	253

Score ☐

6 **Prior Incarceration with *Unsuspended* Sentence Imposed of Less Than 1 Year**

If Yes 33

Score ☐

See Prison Sentence Length Recommendation Table

7 **Total Score** ☐

8 Recommended Sentence Range _____ to _____ (straight) _____ to _____ (split)

9 Reason did **not** accept sentence length recommendation_____

_____

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

Personal Prison Sentence Length Ranges for Worksheet

Time in Months

	Total Sentence			Time to Serve On Split		
Score	**Low**	**Mid**	**High**	**Low**	**Mid**	**High**
72	13	37	60	6	15	24
81	13	37	60	6	15	24
89	13	37	60	6	15	24
91	13	37	60	6	15	24
100	13	37	60	6	15	24
105	13	47	80	6	15	24
108	13	47	80	6	15	24
109	13	47	80	6	15	24
122	13	47	80	6	15	24
123	13	47	80	6	15	24
124	13	47	80	6	15	24
126	13	47	80	6	15	24
128	13	47	80	6	15	24
129	39	71	102	6	15	24
132	47	74	102	12	18	24
133	47	74	102	12	18	24
137	47	74	102	12	18	24
141	55	78	102	12	18	24
142	55	99	143	12	24	36
145	55	99	143	12	24	36
147	55	99	143	12	24	36
148	55	99	143	12	24	36
156	55	99	143	12	24	36
159	62	103	143	12	24	36
160	62	103	143	12	24	36
162	62	103	143	12	24	36
164	62	103	143	12	24	36
166	62	108	153	12	24	36
167	78	116	153	12	24	36
169	78	116	153	12	24	36
170	78	116	153	12	24	36
173	78	116	153	12	24	36
175	78	116	153	12	24	36
177	78	116	153	12	24	36
178	78	116	153	12	24	36
179	78	116	153	12	24	36
180	78	116	153	12	24	36
181	78	116	153	12	24	36
182	78	116	153	12	24	36
184	78	116	153	12	24	36
185	78	116	153	12	24	36
192	78	126	173	12	24	36
193	78	126	173	12	24	36
196	78	126	173	12	24	36
197	78	126	173	12	24	36
198	78	126	173	12	24	36
199	78	126	173	12	24	36
200	78	126	173	12	24	36
201	78	126	173	12	24	36

	Total Sentence			Time to Serve On Split		
Score	**Low**	**Mid**	**High**	**Low**	**Mid**	**High**
204	78	126	173	12	24	36
206	78	126	173	12	24	36
209	78	126	173	12	24	36
210	78	126	173	12	24	36
215	78	126	173	12	24	36
217	78	126	173	12	24	36
218	78	126	173	12	24	36
219	78	126	173	12	24	36
223	78	126	173	12	24	36
224	78	126	173	12	24	36
225	78	126	173	12	24	36
227	78	126	173	12	24	36
229	78	126	173	12	24	36
230	78	126	173	12	24	36
231	78	126	173	12	24	36
232	78	126	173	18	29	40
233	78	126	173	18	29	40
235	78	126	173	18	29	40
236	78	126	173	18	33	48
237	78	126	173	18	33	48
238	78	126	173	18	33	48
243	78	126	173	18	33	48
248	78	141	204	18	33	48
249	78	141	204	18	33	48
251	78	141	204	18	33	48
252	78	141	204	18	33	48
253	78	141	204	18	33	48
254	86	145	204	18	33	48
255	86	145	204	18	33	48
256	86	145	204	18	33	48
257	86	145	204	18	33	48
260	86	145	204	18	33	48
261	86	145	204	18	33	48
262	86	145	204	18	33	48
265	86	145	204	18	33	48
266	86	145	204	18	33	48
267	86	145	204	18	33	48
268	86	145	204	18	33	48
269	86	145	204	18	33	48
271	86	145	204	18	33	48
272	86	145	204	18	33	48
274	86	145	204	18	33	48
275	86	145	204	18	33	48
276	86	145	204	18	33	48
280	86	145	204	18	33	48
281	86	145	204	18	33	48
283	101	153	204	18	33	48
286	101	153	204	18	33	48
287	101	153	204	18	33	48
288	101	153	204	18	33	48
289	101	153	204	18	33	48
290	101	153	204	18	33	48
291	101	153	204	18	33	48

	Total Sentence			Time to Serve On Split		
Score	**Low**	**Mid**	**High**	**Low**	**Mid**	**High**
292	101	153	204	18	33	48
294	101	153	204	18	33	48
299	101	153	204	18	33	48
300	101	153	204	18	33	48
305	101	153	204	18	33	48
307	101	153	204	18	33	48
308	101	153	204	18	33	48
311	101	153	204	22	41	60
313	101	153	204	22	41	60
316	101	153	204	22	41	60
317	101	153	204	22	41	60
319	101	153	204	22	41	60
322	101	153	204	22	41	60
323	101	153	204	22	41	60
324	101	153	204	22	41	60
326	117	161	204	22	41	60
330	117	161	204	22	41	60
331	117	161	204	22	41	60
332	117	161	204	22	41	60
334	117	161	204	22	41	60
335	117	161	204	22	41	60
336	117	161	204	22	41	60
337	117	161	204	22	41	60
338	117	161	204	22	41	60
339	117	161	204	24	42	60
342	117	161	204	24	42	60
344	117	161	204	24	42	60
345	117	161	204	24	42	60
349	117	161	204	24	42	60
350	117	161	204	24	42	60
355	117	161	204	24	42	60
356	117	161	204	24	42	60
358	117	161	204	24	42	60
359	117	161	204	24	42	60
362	117	161	204	24	42	60
363	117	161	204	24	42	60
364	117	161	204	24	42	60
366	117	161	204	24	42	60
367	117	161	204	24	42	60
371	117	186	255	24	42	60
373	117	186	255	24	42	60
374	117	186	255	24	42	60
375	117	186	255	24	42	60
376	117	186	255	24	42	60
378	117	186	255	24	42	60
379	117	186	255	24	42	60
381	117	186	255	24	42	60
386	117	186	255	24	42	60
387	117	186	255	24	42	60
389	117	186	255	24	42	60
393	117	186	255	24	42	60
400	117	186	255	24	42	60
403	117	186	255	24	42	60

	Total Sentence			Time to Serve On Split		
Score	**Low**	**Mid**	**High**	**Low**	**Mid**	**High**
404	117	186	255	24	42	60
405	117	186	255	24	42	60
406	117	186	255	24	42	60
407	117	186	255	24	42	60
409	117	186	255	24	42	60
411	117	186	255	24	42	60
412	117	186	255	24	42	60
414	117	186	255	24	42	60
418	117	186	255	24	42	60
419	117	186	255	24	42	60
423	117	186	255	24	42	60
425	117	186	255	24	42	60
426	117	186	255	24	42	60
427	117	186	255	24	42	60
428	117	186	255	24	42	60
430	117	186	255	24	42	60
431	117	186	255	24	42	60
436	117	186	255	24	42	60
437	117	186	255	24	42	60
438	156	231	306	24	42	60
439	156	231	306	24	42	60
442	156	231	306	24	42	60
444	156	231	306	24	42	60
449	156	231	306	24	42	60
450	156	231	306	24	42	60
451	156	231	306	36	48	60
455	156	231	306	36	48	60
456	156	231	306	36	48	60
457	156	231	306	36	48	60
458	156	231	306	36	48	60
460	156	231	306	36	48	60
461	156	282	408	36	48	60
462	156	282	408	36	48	60
463	156	282	408	36	48	60
465	156	282	408	36	48	60
467	156	282	408	36	48	60
470	156	282	408	36	48	60
474	156	282	408	36	48	60
475	156	282	408	36	48	60
476	156	282	408	36	48	60
477	156	282	408	36	48	60
483	156	282	408	36	48	60
487	156	282	408	36	48	60
491	156	282	408	36	48	60
493	156	282	408	36	48	60
494	156	282	408	36	48	60
495	156	282	408	36	48	60
498	156	282	408	36	48	60
500	156	282	408	36	48	60
501	156	282	408	36	48	60
505	156	282	408	36	48	60
506	156	588	1020	36	48	60
507	156	588	1020	36	48	60

	Total Sentence			Time to Serve On Split		
Score	**Low**	**Mid**	**High**	**Low**	**Mid**	**High**
510	156	588	1020	36	48	60
512	156	588	1020	36	48	60
513	156	588	1020	36	48	60
520	156	588	1020	36	48	60
524	156	588	1020	36	48	60
526	156	588	1020	36	48	60
528	156	588	1020	36	48	60
529	156	588	1020	36	48	60
530	156	588	1020	36	48	60
531	156	588	1020	36	48	60
533	156	588	1020	36	48	60
540	156	588	1020			
543	156	588	1020			
544	156	588	1020			
545	156	588	1020			
548	156	588	1020			
550	156	588	1020			
551	156	588	1020			
552	156	588	1020			
553	156	588	1020			
556	156	588	1020			
558	156	588	1020			
562	156	588	1020			
564	156	588	1020			
582	156	588	1020			
590	156	588	1020			
594	156	588	1020			
595	156	588	1020			
601	156	588	1020			
602	156	588	1020			
607	156	588	1020			
619	156	588	1020			
620	156	588	1020			
627	156	588	1020			
632	156	588	1020			
652	156	588	1020			
665	156	588	1020			
676	156	588	1020			
677	156	588	1020			
684	156	588	1020			
688	156	588	1020			
695	156	588	1020			
701	156	588	1020			
706	156	588	1020			
709	156	588	1020			
710	156	588	1020			
728	156	588	1020			
732	156	588	1020			
735	234	627	1020			
747	234	627	1020			
757	234	627	1020			
761	234	627	1020			
765	234	627	1020			

	Total Sentence			Time to Serve On Split		
Score	**Low**	**Mid**	**High**	**Low**	**Mid**	**High**
780	234	627	1020			
784	234	627	1020			
790	234	627	1020			
798	234	627	1020			
803	234	627	1020			
812	234	627	1020			
816	234	627	1020			
817	234	627	1020			
831	234	627	1020			
835	234	627	1020			
836	234	627	1020			
840	234	627	1020			
848	234	627	1020			
849	234	627	1020			
854	234	627	1020			
868	234	627	1020			
872	234	627	1020			
885	234	627	1020			
904	234	627	1020			
905	234	627	1020			
918	234	627	1020			
936	234	627	1020			
950	234	627	1020			
955	234	627	1020			
986	234	627	1020			
1010	234	627	1020			
1111	234	627	1020			
1126	234	627	1020			
1130	234	627	1020			

The Property offenses listed below are covered by the Sentencing Standards subject to Voluntary Sentencing Recommendations.

Most Serious Offense at Conviction Ranking

Burglary I
§13A-7-5
275 points

Burglary II
§13A-7-6
70 points

Burglary III
§13A-7-7
45 points

INSTRUCTIONS - - Property Prison In/Out Worksheet

1 **1. Case Information Section**
Complete prior to sentencing. See the General Instructions to complete this section.

2 **2. Sentencing Factors Section**
Complete prior to sentencing.

3 **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 **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 **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 Burglary I, then a prior Burglary II or III conviction would not be scored.

6 **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 **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 at the current sentencing event.

8 **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 at the current sentencing event.

9 **9. Prior Felony 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 **10. Number of Prior Juvenile Delinquency or Youthful Offender Adjudications (Violation/Misd/ Felony) -** 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 **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 **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 **13. Total Score** – Total the scores from the Sentencing Factors Section.

Recommendation Section

14 **14. Non-Prison**: **8-14 Points** Circle "non-prison" as the voluntary disposition.

15 **15. Prison: 15 or more points** Circle "prison" as the voluntary disposition.

Property Prison In/Out Worksheet

Eff.10-1-2013

1 **Defendant** _____ **Case No.** _____
Judge _____ **Prosecutor** _____
Probation Officer _____ **Defense Attorney** _____
2 **Worksheet Preparer, Title** _____ **Additional Cases** _____

3 **Most Serious Conviction Offense**

Burglary III	11
Burglary II	13
Burglary I	14

Score ☐

4 **Number of Prior Adult Felony Convictions**

None	0
1-2	1
3-4	2
5 or more	3

Score ☐

5 **Number of Prior Adult Convictions for Same Felony**

None	0
1	1
2	2
3-4	3
5 or more	4

Score ☐

6 **Number of Prior Adult Convictions for Misdemeanors or Violations**

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

Score ☐

7 **Prior Incarceration with *Unsuspended* Sentence Imposed of 1 Year or More**

If Yes	6

Score ☐

8 **Prior Incarceration with *Unsuspended* Sentence Imposed of Less Than 1 Year**

If Yes	3

Score ☐

9 **Prior Felony Probation or Parole Revocation**

If Yes	2

Score ☐

10 **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 ☐

11 **Possession/Use of a Deadly Weapon or Dangerous Instrument**

If Yes	1

Score ☐

12 **Injury to Victim**

If Yes	2

Score ☐

13 **Total Score** ☐

Recommendation

14 **8-14 points: Non-Prison**

15 **15 or more points: Prison**

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

INSTRUCTIONS - - Property Prison Sentence Length Worksheet

1 **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 **2. Sentencing Factors Section**
Complete prior to sentencing.

3 **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 **4. Number of Additional Felony Convictions (Including Counts) -** The preparer 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 **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 **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 **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 at the current sentencing event.

8 **8. Prior Felony 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 **9. Possession/Use of a Deadly Weapon or Dangerous Instrument and/or Injury to Victim -** 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.

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.

Additionally, this factor should be counted if the defendant enters a dwelling with a deadly weapon whether or not it was used or brandished during the commission of the offense.

10 **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 **11. Total Score** – Total the scores from the Sentencing Factors Section.

12 **12. Recommended Sentence Range -** Go to the Drug Prison Sentence Ranges for Worksheet Table to convert the score into a sentence length recommendation. Record the recommended sentence ranges for the total sentence and split sentence in the spaces identified as "straight" and "split". The sentence for the most serious offense must come from the sentence length tables 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 **13. Reason Recommendation Not Accepted** – If the sentencing judge decides that no sentence length recommendation fits this case, the judge or another person designated by the judge, is asked to give a reason why the recommendation was not followed. The reason given should be stated here and will be used by the Sentencing Commission to evaluate the effectiveness of the standards.

Property Prison Sentence Length Worksheet

Eff.10-1-2013

1 **Defendant** _____ **Case No.** _____

2

3 **Most Serious Conviction Offense**

Burglary III	45
Burglary II	70
Burglary I	275

Score ☐

4 **Number of Additional Felony Convictions (Including Counts)**

None	0
1	5
2	10
3 or more	15

Score ☐

5 **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 ☐

6 **Number of Prior Adult Felony Property Convictions**

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

Score ☐

7 **Prior Incarceration with *Unsuspended* Sentence Imposed of 1 Year or More**

If Yes 15

Score ☐

8 **Prior Felony Probation or Parole Revocation**

If Yes 7

Score ☐

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

If Yes 37

Score ☐

10 **Acquired a Firearm During Offense**

If Yes 12

Score ☐

See Prison Sentence Length Recommendation Table

11 **Total Score** ☐

12 Recommended Sentence Range _____ to _____ (straight) _____ to _____ (split)

13 Reason did **not** accept sentence length recommendation

_____

14 **Judge's Signature/Initial**

_____

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

Property Prison Sentence Length Ranges for Worksheet

Time in Months

	Total Sentence			Time to Serve On Split		
Score	**Low**	**Mid**	**High**	**Low**	**Mid**	**High**
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

	Total Sentence			Time to Serve On Split		
Score	**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

	Total Sentence			Time to Serve On Split		
Score	**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

	Total Sentence			Time to Serve On Split		
Score	**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

	Total Sentence			Time to Serve On Split		
Score	**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

Original Voluntary Sentencing Standards

ORIGINAL VOLUNTARY SENTENCING STANDARDS
Adopted September 30, 2005 and effective October 1, 2006

General Instructions for Completing Sentening Worksheets

1. Worksheets should be completed and considered when the "most serious conviction offense" at a sentencing event, is one of the following:

Personal Worksheets	Property Worksheets	Drug Worksheets
Assault I § 13A-6-20	Burglary I § 13A-7-5	Felony DUI § 32-5a-191(h)
Assault II § 13A-6-21	Burglary II § 13A-7-6	Possession of Marihuana I § 13A-12-213
Manslaughter § 13A-6-3	Burglary III § 13A-7-7	Unlawful Possession of a Controlled Substance § 13A-12-212
Murder § 13A-6-2	Forgery II § 13A-9-3	Sale/Distribution of Marihuana (other than to a minor) § 13A-12-211
Rape I § 13A-6-61	Possession Forged Instrument II § 13A-9-6	Sale/Distribution of Schedule I-V (other than to a minor) § 13A-12-211
Rape II § 13A-6-62	Theft of Property I § 13A-8-3	
Robbery I § 13A-8-41	Theft of Property II § 13A-8-4	
Robbery II § 13A-8-42	Receiving Stolen Property I § 13A-8-17	
Robbery III § 13A-8-43	Receiving Stolen Property II § 13A-8-18	
Sodomy I § 13A-6-63	Unauthorized Use/B&E Vehicle § 13A-8-11(a)(4) & (b)	
Sodomy II § 13A-6-64	Unlawful Possession/Use Credit/Debit Card § 13A-9-14	

A "sentencing event" includes all convictions disposed of at one time.

2. To determine the "most serious conviction offense" for the purpose of scoring worksheets, the preparer should select the offense with the highest number of points listed in the first section of the corresponding sentence length worksheet.

3. Both worksheets must be completed even if the recommended disposition is "non-prison."

4. If a defendant is being sentenced for more than one crime type at the same sentencing event – e.g. both drug and property offenses – more than one set of worksheets may be completed to determine which offense would most likely result in a recommended prison sentence and/or longest sentence length.

   Example:

   - If a defendant is being sentenced for Assault II (72 points) and Burglary II (70 points) at the same sentencing event, the worksheet preparer should first complete the Personal Sentencing Worksheets to determine the recommended sentencing outcome. This is because Assault II has the highest point value in the first section of the "personal" sentence length worksheet. Then, the preparer could elect to score Burglary II as the primary offense on the Worksheets to determine which sentencing outcome would be most appropriate in this particular case.

5. If a "worksheet" offense and a "non-worksheet" offense being sentenced at the same sentencing event have the same statutory maximum penalty, then the user should select the "worksheet" offense as the primary offense and the "non-worksheet" offense should be scored as an additional offense.

   Example:

   - The maximum statutory penalty for Criminal Mischief I (with no prior felony convictions) is 10 years and the maximum statutory penalty for Assault II (with no prior felony convictions) is 10 years. If both are being sentenced at the same event, the worksheet preparer should score the personal worksheets for Assault II. This is because Assault II is covered by the worksheets and Criminal Mischief I is not.

   - In the above scenario, if worksheet offense was a drug or property offense, the non-worksheet offense(s) should be scored under the "Number of Additional Felony Convictions (Including Counts)" section of the Sentence Length Worksheets.

6. If the "non-worksheet" offense has a higher maximum statutory penalty than a "worksheet" offense being sentenced at the same event, then the entire sentencing event is not covered by the worksheets.

   Example:

   - The maximum statutory penalty for Attempted Arson I (with no prior felony convictions) is 20 years and the maximum statutory penalty for Assault II (with no prior felony convictions) is 10 years. If both are being sentenced at the same event, no worksheets should be prepared. This is because the statutory maximum penalty for Attempted Arson is greater than that for Assault II.

7. Once a sentence has been selected from the recommended sentence range, it is up to the sentencing judge to decide how it shall be imposed.

   For instance, if a defendant is being sentenced for three felonies and the recommended time imposed is 30 years, then the judge has several options. He or she could:

   1. order the defendant to serve a 360 month sentence for each offense to be served concurrently;
   2. order the defendant to serve three 120 month sentences consecutively; or
   3. order the defendant to serve one 240 month sentence and two 60 month sentences consecutively, etc.

8. 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) being sentenced. If an ambiguous entry on a prior record document cannot be resolved, the scorer 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 scorer should assume that no conviction occurred. In the event of a dispute, the burden of proving the prior conviction is on the prosecutor. For the 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.

9. When completing the worksheets, matters disposed of by pleas of nolo contendere or "no contest" should be counted as prior convictions. In addition, any incarceration resulting from a plea of nolo contendere or "no contest" should be counted in the appropriate places on the worksheets.

10. 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. All other pardons – e.g. those to restore voting rights – should not be construed to affect a defendant's criminal history.

11. Worksheets are designed to be used only when the offense being sentenced is on a worksheet. They are not intended to provide guidance when sentencing similar crimes. This is because the factors included on the worksheets have been statistically derived specifically for the listed offenses and may or may not be statistically significant in predicting sentencing outcomes for others.

12. When scoring 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.

13. Sentence lengths recommended on the worksheets are intended to give guidance in imposing prison sentences. They are not intended to suggest terms of probation. Compliance with the standards occurs when the sentence conforms with the recommended disposition (prison v. non-prison) and prison duration (months) indicated on the sentencing standards tables is imposed. Judges may however, sentence offenders sentenced to probation for the duration listed on the tables or any other lawful term and still be considered in compliance.

14. Worksheets do not have to be filled out for offenders who are assigned to drug court or pre-trial diversion until a sentence is imposed. Some jurisdictions imposed sentence as soon as a person enters drug court. In these cases, the worksheets should be completed at this time. If sentencing does not occur until later – e.g. when the person "flunks out" of the program – then the worksheets do not need to be completed until the time of sentencing. In short, for drug court and other diversionary programs, the worksheets need not be filled out until the time of sentencing.

15. All previous convictions of misdemeanor Driving Under the Influence (DUI) should be counted as priors, including when the worksheets are being completed for Felony DUI cases.

16. 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.

17. The recommended sentence ranges, in months, presented in the sentencing standards are expected to be applied in 75 percent of all cases being sentenced. They do not apply to mandatory life without parole sentences pursuant to the Habitual Felony Offender Act, Section 13A-5-9, Code of Alabama where a defendant who has been previously convicted of three felonies - one of which is a Class A felony. It is expected that 25 percent of all cases will fall outside of the suggested range.

18. The minimum sentence imposed under the sentencing standards must not be less than the statutory sentences specified in Paragraphs 1-3, Section 13A-5-6, Code of Alabama 1975. (Provided, however, the minimum sentence may still be "split" pursuant to Section 15-18-8, Code of Alabama 1975.)

    1. For a Class A felony, the minimum sentence imposed must be at least 120 months.
    2. For a Class B felony, the minimum sentence imposed must be at least 24 months.
    3. 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.

19. Pursuant to § 12-25-35, Code of Alabama, 1975, worksheets should be completed and the sentencing standards recommendations shall be considered for all offenders to whom they are applicable.

20. The Sentencing Commission requests that in any case in which a sentence is imposed that is a departure from the voluntary standards, the court provide a brief reason for the departure. Such statements may be included on forms (electronic or hard copy) provided by the Sentencing Commission and used solely by the Sentencing Commission in evaluating the effectiveness of these standards. See §12-25-35 (c) and (e).

    Examples:

    More severe
    - Worksheets do not express the severity of criminality of the offender's history.
    - No alternatives to prison available.
    - Offender needs long-term substance abuse treatment available only through the Department of Corrections.
    - Injury to victim deserves greater punishment.

    Less severe
    - The worksheets exaggerate the severity of the offender's prior history.
    - Prior history not relevant to this proceeding because the prior history is too remote.
    - The recommended sentence punishes too harshly or too leniently.
    - Offender shows sufficient progress toward rehabilitation to allow alternative to prison.

21. If a score falls between two scores listed on the sentence length ranges, select the lower of the two scores to determine the recommended sentence range.

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