

ALABAMA SENTENCING COMMISSION

Presumptive and Voluntary  
Sentencing Standards

Effective October 1, 2016

Manual

An abstract graphic in the bottom left corner consisting of several overlapping, curved lines in shades of blue and grey, creating a sense of movement and depth.

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# Table of Contents

<b>Alabama Sentencing Commission Statutes</b>	1
<b>General Instructions I - Introduction</b>	15
<b>General Instructions II - Administrative Procedures</b>	19
<b>General Instructions III - When to Use the Standards and Completing the Worksheets</b>	21
<b>General Instructions IV - Completing Each Worksheet</b>	31
<b>Drug Offenses</b>	35
<b>Instructions - Drug Prison In/Out Worksheet</b>	37
<b>Drug Prison In/Out Worksheet</b>	39
<b>Instructions - Drug Sentence Length Worksheet</b>	41
<b>Drug Sentence Length Worksheet</b>	43
<b>Drug Sentence Length Table</b>	45
<b>Property Offenses</b>	49
<b>Instructions - Property Prison In/Out Worksheet</b>	51
<b>Property Prison In/Out Worksheet</b>	53
<b>Instructions - Property Sentence Length Worksheet</b>	55
<b>Property Sentence Length Worksheet</b>	57
<b>Property Sentence Length Table</b>	59
<b>Personal Offenses</b>	65
<b>Instructions - Personal Prison In/Out Worksheet</b>	67
<b>Personal Prison In/Out Worksheet</b>	69
<b>Instructions - Personal Sentence Length Worksheet</b>	71
<b>Personal Sentence Length Worksheet</b>	73
<b>Personal Sentence Length Table</b>	75

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## ALABAMA SENTENCING COMMISSION

### **Section 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.)*

### **Section 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.)*

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### **Section 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, p. 1304, §1.)*

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## **Section 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.)*

## **Section 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.)*

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## **Section 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.)*

## **Section 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.)*

## **Section 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.)*

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### **Section 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.)*

### **Section 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.)*

### **Section 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



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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.)*

### **Section 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.)*

### **Section 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.)*

### **Section 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.)*

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### **Section 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.)*

### **Section 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.

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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 as established in Section 12-17-226.6.
    - (i) Victim impact panels.
    - (ii) Voluntary victim offender conferencing.
    - (iii) Voluntary victim offender mediation.
  24. Self-help groups.
  25. Sobriety 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) EVIDENCE-BASED PRACTICES. Policies, procedures, programs, and practices proven by widely accepted and published research to reliably produce reductions in recidivism.
  - (5) FELONY OFFENSE. A noncapital felony offense.
  - (6) 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.
  - (7) NONVIOLENT OFFENSE. All offenses which are not violent offenses.

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(8) NONVIOLENT OFFENDER. Any offender who does not qualify as a violent offender pursuant to subdivision (14).

(9) OFFENDER. A person convicted of a noncapital felony offense.

(10) 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.

(11) VALIDATED RISK AND NEEDS ASSESSMENT. An actuarial tool that has been validated and established by administrative rule in Alabama to determine the likelihood of an offender engaging in future criminal behavior. The Board of Pardons and Paroles and the Department of Corrections shall adopt compatible tools to conduct a validated risk and needs assessment upon offenders within the jurisdiction of the state. A validated risk and needs assessment shall include, but not be limited to, an offender's prior criminal history, the nature and severity of the present offense, and potential for future violence.

(12) TRUTH-IN-SENTENCING STANDARDS. Truth in sentencing is scheduled to become effective October 1, 2020.

(13) 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.

(14) 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.

(15) 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.

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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 subdivision (1) or subdivision (2) of subsection (a) of 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. Domestic violence III pursuant to subsection (d) of Section 13A-6-132.
  47. Domestic violence by strangulation or suffocation pursuant to Section 13A-6-138.
  48. Human trafficking I pursuant to Section 13A-6-152.
  49. Human trafficking II pursuant to Section 13A-6-153.
  50. Hindering prosecution in the first degree pursuant to Section 13A-10-43.
  51. 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, p. 1304, §1; Act 2014-346, p. 1289, §1(b)(3); Act 2015-185, §1.)*

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### **Section 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 validated risk and needs 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 and needs 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, to include the number of incarcerated inmates that are currently only serving a sentence for a nonviolent offense and who also have a violent offense in their criminal history. The Department of Corrections shall provide to the commission any information necessary to complete such report.
- (12) Conduct the research necessary to determine the appropriate point values for offenses classified as Class D felonies for purposes of the sentencing guidelines and establish such point values within the sentencing range set forth in Section 13A-5-6.
- (13) 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; Act 2015-185, §1.)*

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## **Section 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, p. 1304, §1.)*

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### **Section 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.)*

### **Section 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



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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, p. 1304, §2.)*

### **Section 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.)*

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## I. GENERAL INSTRUCTIONS - Introduction

### The Sentencing Standards<sup>1</sup> – 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)<sup>2</sup>, the Alabama Legislature changed the Standards for non-violent offenses as defined by ALA. CODE § 12-25-32 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 presumptive recommendations. The primary modifications to the Initial Voluntary Sentencing Standards included defining a list of aggravating and mitigating factors for departures from presumptive sentencing recommendations, defining procedures for departure sentences from presumptive sentencing recommendations, 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.

In Act 2015-185, the Alabama Legislature created a Class D felony offense classification and placed new restrictions on Class C and Class D felony sentencing. Act 2015-185 further required the Alabama Sentencing Commission to incorporate the new Class D felonies into the Sentencing Standards. In addition to adding the new Class D felonies, additional non-violent crimes have also been added to the Standards and the instructions have been modified to provide information on the new sentencing parameters for all Class C and Class D felony offenses.

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 pursuant to ALA. CODE § 13A-5-9, 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

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

<sup>2</sup> All references to ALA. CODE are to ALA. CODE (1975, as amended).

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- Non-appealable, except departure sentences from presumptive recommendations for non-violent offenses are subject to appellate review as directed by ALA. CODE § 12-25-34.2(c).

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 pursuant to ALA. CODE § 13A-5-9 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 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 Sentence Length worksheet that recommends a sentence length range from which a sentence is chosen. The recommendations for personal offenses and specified burglary offenses remain voluntary. Each type of worksheet relies on a separate sentence length table providing recommended sentence ranges based on the Sentence Length Worksheet score from which the final sentence is selected unless the sentencing judge does not comply with the Standards and imposes a sentence governed by existing law.

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.

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- (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.”



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## 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 and court orders 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<sup>3</sup> by either:

E-mail: [sentencing.commission@alacourt.gov](mailto:sentencing.commission@alacourt.gov);

Fax: (334) 954-5201;

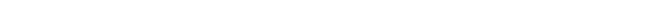
US mail: Alabama Sentencing Commission  
300 Dexter Avenue, Suite 2-230  
Montgomery, AL 36104-3741

### Judicial Disagreement with Worksheet Scoring and Instructions

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

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<sup>3</sup> For purposes of this requirement, an ALAVault document is considered a paper document.



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

#### Covered Offenses

The following offenses are covered by the Standards unless the conviction carries a mandatory life without parole sentence pursuant to ALA. CODE § 13A-5-9 or is a sex offense involving a child victim under 12 years of age.

#### Personal Worksheets

Assault 1<sup>st</sup>  
§13A-6-20

Assault 2<sup>nd</sup>  
§13A-6-21

Manslaughter  
§13A-6-3

Murder  
§13A-6-2

Rape 1<sup>st</sup>  
§13A-6-61

Rape 2<sup>nd</sup>  
§13A-6-62

Robbery 1<sup>st</sup>  
§13A-8-41

Robbery 2<sup>nd</sup>  
§13A-8-42

Robbery 3<sup>rd</sup>  
§13A-8-43

Sodomy 1<sup>st</sup>  
§13A-6-63

Sodomy 2<sup>nd</sup>  
§13A-6-64

#### Drugs Worksheets

Felony DUI  
§ 32-5a-191(h)

Manufacturing Controlled Substance 1<sup>st</sup>  
§ 13A-12-218  
(includes attempts, conspiracies, and solicitations)

Manufacturing Controlled Substance 2<sup>nd</sup>  
§ 13A-12-217  
(includes attempts, conspiracies, and solicitations)

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

Possession of Marihuana 1<sup>st</sup>  
§ 13A-12-213(a)(1)&(2)  
(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)



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

#### Covered Offenses

The following offenses are covered by the Standards unless the conviction carries a mandatory life without parole sentence pursuant to ALA. CODE § 13A-5-9 or is a sex offense involving a child victim under 12 years of age.

#### Property Worksheets

Burglary 1 <sup>st</sup> §13A-7-5	Theft of Lost Property 1 <sup>st</sup> §13A-8-7
Burglary 2 <sup>nd</sup> §13A-7-6	Theft of Lost Property 2 <sup>nd</sup> §13A-8-8
Burglary 3 <sup>rd</sup> §13A-7-7(a)(1)-(3)	Theft of Lost Property 3 <sup>rd</sup> §13A-8-8.1
Forgery 1 <sup>st</sup> §13A-9-2	Theft of Property 1 <sup>st</sup> * §13A-8-3
Forgery 2 <sup>nd</sup> §13A-9-3	Theft of Property 2 <sup>nd</sup> * §13A-8-4
Forgery 3 <sup>rd</sup> §13A-9-3.1	Theft of Property 3 <sup>rd</sup> * §13A-8-4.1
Possession of a Forged Instrument 1 <sup>st</sup> §13A-9-5	Theft of Services 1 <sup>st</sup> §13A-8-10.1
Possession of a Forged Instrument 2 <sup>nd</sup> §13A-9-6	Theft of Services 2 <sup>nd</sup> §13A-8-10.2
Possession of a Forged Instrument 3 <sup>rd</sup> §13A-9-6.1	Theft of Services 3 <sup>rd</sup> §13A-8-10.25
Receiving Stolen Property 1 <sup>st</sup> §13A-8-17	Unauthorized Use/Break & Enter Vehicle §13A-8-11 (a)(4) & (b)
Receiving Stolen Property 2 <sup>nd</sup> §13A-8-18	Unlawful Possession/Use Credit/Debit Card §13A-9-14
Receiving Stolen Property 3 <sup>rd</sup> §13A-8-18.1	

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## 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 - Five 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 Sentence Length Worksheet.

Example:

- If a defendant is being sentenced for Unlawful Distribution of Controlled Substances (score of 113 points on the Sentence Length Worksheet) and Felony DUI (score of 76 points on the Sentence Length Worksheet) at the same event, Unlawful Distribution of Controlled Substances is the most serious offense.

**Rule 2.** Where two or more offenses at the same sentencing event are covered by different worksheets (whether the offenses are all presumptive offenses, all voluntary offenses, or a combination of presumptive and voluntary offenses), the most serious offense is the offense with the highest number of points shown on the applicable 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 2<sup>nd</sup> (47 points on the Sentence Length worksheet) and Sale/Distribution of Marihuana (84 points on the 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 Sentence Length Worksheet. Then, the preparer could then elect to score Forgery 2<sup>nd</sup> as the primary offense on the property worksheets to determine which sentencing outcome would be most appropriate in this particular case.

Example:

- If a defendant is being sentenced for Manufacturing Controlled Substance 1<sup>st</sup> (286 points on the Sentence Length worksheet) and Robbery 2<sup>nd</sup> (173 points on the 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 Manufacturing Controlled Substance 1<sup>st</sup> has the highest point value as reflected on the Sentence Length Worksheet. Then, the preparer could then elect to score Robbery 2<sup>nd</sup> as the primary offense on the personal worksheets to determine which sentencing outcome would be most appropriate in this particular case.

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**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 1<sup>st</sup> and Theft of Property 2<sup>nd</sup> (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 2<sup>nd</sup> as the most serious offense. This is because Theft of Property 2<sup>nd</sup> is covered by the worksheets and Criminal Mischief 1<sup>st</sup> 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.

Example:

- If a defendant is being sentenced for Unlawful Distribution of Controlled Substances (statutory maximum penalty of 20 years) and Arson 1<sup>st</sup> (statutory maximum penalty of 99 years or life) at the same event, Arson 1<sup>st</sup> is the most serious offense and the Standards are not applicable at this sentencing event.

**Rule 5.** Where a sentencing event includes both a worksheet offense and a non-worksheet offense and the worksheet offense has a higher statutory maximum penalty as governed by the felony offense classification, the worksheet offense is the most serious offense and the Standards are applicable to the convictions in that sentencing event.

Example:

- If a defendant is being sentenced for Unlawful Distribution of Controlled Substances (statutory maximum penalty of 20 years) and Criminal Mischief 1<sup>st</sup> (statutory maximum penalty of 10 years) at the same event, Unlawful Distribution of Controlled Substances is the most serious offense and the Standards are applicable at this sentencing event.

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

Both the Prison In/Out Worksheet and the 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.

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*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 limited 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 Disposition and Sentence Lengths**

A sentence comports to the Standards when the sentence conforms to the recommendation on the Prison In/Out Worksheet and the sentence length is chosen from the recommended sentence ranges on the 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 provided the total sentence length and incarceration portion lengths also comport to the requirements of ALA. CODE § 15-18-8.

A sentence that does not conform to the Presumptive 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.

A sentence that does not conform to the Voluntary Standards, as set out above, is governed by existing law and must be sentenced completely under existing law regarding length of sentence, independent of the Standards recommendations.

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

If a score on the 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)-(4), provided, however, that the sentence must in some cases, and could in others, 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.
- For a Class D 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 13<sup>th</sup> 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 Prison the In/Out Worksheet and the sentence length is chosen from the recommended sentence ranges on the Sentence Length Tables, including where prison is recommended, and a split sentence is imposed, the split portion of the sentence cannot be suspended and both the total sentence and the incarceration portion of the split must conform to the recommendations on the sentence length tables provided the total sentence length and incarceration portion lengths also comport to the requirements of ALA. CODE § 15-18-8.

Once a sentence has been selected from the recommended 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 Theft of Property 1<sup>st</sup> and Forgery 2<sup>nd</sup> and the Property Prison In/Out Worksheet scores “Prison”, and the Property Sentence Length Ranges include a Low Total Sentence of 27 months and High Total Sentence of 115 months with a Low Split of 6 months and a High Split of 19 months, and the chosen sentence is a “Straight Sentence” of 96 months, the following is a non-exclusive list of examples of sentences the judge may impose:

- 96 months for each conviction to run concurrently; or
- 48 months for each conviction to run consecutively.

In the above example, absent a sentencing judge’s decision not to comply with the Standards’ sentence length ranges, no combination of sentences can exceed 96 months for both cases or counts, for both covered and non-covered offenses.

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If the most serious offense at a sentencing event is a Class C felony and the offender is not sentenced to probation, drug court, or a pretrial diversion program, the offender must be sentenced to a “split sentence” pursuant to the requirements specified in ALA. CODE §15-18-8(b) (and the presumptive sentencing ranges when applicable) or, if the judge imposes a sentence outside the Standards’ sentence length ranges, the sentence length is then governed by existing law.

If the most serious offense at a sentencing event is a Class D felony and the offender is not sentenced to probation, drug court, or a pretrial diversion program, the offender must be sentenced to a “split sentence” pursuant to the requirements specified in ALA. CODE §15-18-8(b) and the presumptive sentencing ranges.

If the most serious offense at a sentencing event is a Class D felony and the offender’s presumptive Prison In/Out worksheet recommendation is “IN,” an Alabama Department of Corrections sentence becomes a sentencing option only if the offender has been previously convicted of any three or more felonies, or previously convicted of any two or more felonies that are Class A or Class B felonies.

If the most serious offense at a sentencing event is a Class D felony and the offender’s presumptive Prison In/Out worksheet recommendation is “OUT,” a County Jail sentence becomes a sentencing option only if the offender has been previously convicted of any three or more felonies, or previously convicted of any two or more felonies that are Class A or Class B felonies.

If the most serious offense at a sentencing event is a Class D felony and the offender’s presumptive In/Out worksheet recommendation is “IN,” high-intensity probation under the supervision of the Board of Pardons and Paroles in lieu of community corrections becomes an option only if no community corrections program exists within a county or jurisdiction and no alternative program options are available pursuant to § 15-18-172(e).

A split sentence conforms to the Standards, where prison is recommended, 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 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 private 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.

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Examples of non-prison and prison dispositions:

Non-prison

Probation

Community Corrections

\*County Jail / Work Release

Reverse Split

Split sentence with a suspended split

Prison (unsuspended sentence)

\*\*Department of Corrections (prison)

Community Corrections

\*\*Split to Department of Corrections

Split to Community Corrections

\*\*\*High-Intensity Probation

\*If the most serious offense at a sentencing event is a Class D felony, a County Jail sentence (non-prison) becomes a sentencing option only if the offender has been previously convicted of any three or more felonies, or previously convicted of any two or more felonies that are Class A or Class B felonies.

\*\*If the most serious offense at a sentencing event is a Class D felony, a Department of Corrections sentence (prison) becomes a sentencing option only if the offender has been previously convicted of any three or more felonies, or previously convicted of any two or more felonies that are Class A or Class B felonies.

\*\*\*Pursuant to § 15-18-8(e), Class D felony offenders may be sentenced to “high-intensity” probation under the supervision of the Board of Pardons and Paroles in lieu of community corrections only if no community corrections program exists with a county or jurisdiction and no alternative program options are available pursuant to § 15-18-172(e).

### **Departure Procedures for Presumptive Sentencing Events**

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.

Dispositional Departures are only allowed for Class D felony convictions if the offender has been previously convicted of any three or more felonies, or previously convicted of any two or more felonies that are Class A or Class B felonies.

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.<sup>4</sup>
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

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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.
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.

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## 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)

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

*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.

*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.

Defendant \_\_\_\_\_

Judge \_\_\_\_\_

Case No. \_\_\_\_\_

Prosecutor \_\_\_\_\_

Worksheet Preparer \_\_\_\_\_

Defense Attorney \_\_\_\_\_

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

**Step C** – Prison In/Out Worksheet Recommendation:

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

#### Drug In/Out Recommendation (Presumptive Disposition)

#### Total Score

1-7 points: Non-Prison

8 or more points: Prison

#### Property In/Out Recommendation (Voluntary/Presumptive Disposition) Total Score

8-14 points: Non-Prison

15 or more points: Prison

#### Personal In/Out Recommendation (Voluntary Disposition)

#### Total Score

1-7 points: Non-Prison

8 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.

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**SENTENCE LENGTH WORKSHEET**

**Step A** - Complete the case information at the top of the 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** - 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 Sentence Length Range table and select the sentence ranges that conform to the total score.
3. Record the recommended ranges on the Sentence Length Worksheet.

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

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## 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.

<b>Score</b>	<b>Total Sentence</b>			<b>Time to Serve On Split</b>		
	<b>Low</b>	<b>Mid</b>	<b>High</b>	<b>Low</b>	<b>Mid</b>	<b>High</b>
<b>32</b>	13	18	23	6	9	12
<b>37</b>	13	22	31	6	9	12
<b>39</b>	13	22	31	6	9	12
<b>42</b>	13	22	31	6	9	12
<b>44</b>	13	22	31	6	9	12
<b>45</b>	13	22	31	6	9	12
<b>46</b>	13	22	31	6	9	12
<b>47</b>	13	22	31	6	9	12
<b>49</b>	14	23	31	6	9	12
<b>51</b>	14	23	31	6	9	12
<b>52</b>	14	27	38	6	9	12
<b>53</b>	14	27	38	6	9	12
<b>54</b>	14	27	38	6	9	12
<b>55</b>	14	27	38	6	9	12
<b>56</b>	14	31	46	6	9	12
<b>57</b>	14	31	46	6	9	12
<b>58</b>	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 sentence length worksheet. If no match is found, select the next lowest score corresponding to the Total Score on the 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.

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**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 Sentence Length Worksheet.

**Step E** – After sentencing, if the judge departs from the 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 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](mailto:sentencing.commission@alacourt.gov)**

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

**Most Serious Offense at Conviction Ranking**

Felony DUI  
§ 32-5a-191(h)

Manufacturing Controlled Substance 1<sup>st</sup>  
§ 13A-12-218  
(includes attempts, conspiracies, and solicitations)

Manufacturing Controlled Substance 2<sup>nd</sup>  
§ 13A-12-217  
(includes attempts, conspiracies, and solicitations)

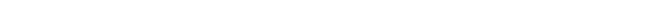
Possession of Controlled Substance  
§ 13A-12-212  
(includes attempts, conspiracies, and solicitations)

Possession of Marihuana 1<sup>st</sup>  
§ 13A-12-213(a)(1)&(2)  
(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)



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## INSTRUCTIONS - - Drug Prison In/Out Worksheet

### 1. Case Information Section

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

### 2. Sentencing Factors Section

Complete prior to sentencing.

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

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

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

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

**7. 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. The imposition of intermediate sanctions (pursuant to § 15-22-29, § 15-22-32, § 15-22-52, and § 15-22-54) in response to a probation/parole violation to include periods of confinement in jail or prison should not be counted.

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

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

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



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**Presumptive Disposition****11. Non-Prison: 1-7 Points**

Circle “non-prison” as the presumptive disposition.

**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 Drug 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. 10-1-2016

Defendant \_\_\_\_\_ Judge \_\_\_\_\_  
 Case No. \_\_\_\_\_ Prosecutor \_\_\_\_\_  
 Worksheet Preparer \_\_\_\_\_ Defense Attorney \_\_\_\_\_

**Most Serious Conviction Offense** \_\_\_\_\_ Please circle one offense

**PRESUMPTIVE**

***Class D offenses***

- Poss of Controlled Substance ..... 1
- A/S/C Poss of Controlled Substance ..... 1
- Poss of Marihuana 1<sup>st</sup> §13A-12-213(a)(2) ..... 1
- A/S/C Poss of Marihuana 1<sup>st</sup> §13A-12-213(a)(2) ..... 1

**PRESUMPTIVE**

***Class C offenses***

- Felony DUI ..... 4
- Poss of Marihuana 1<sup>st</sup> §13A-12-213(a)(1) ..... 2
- A/S/C Poss of Marihuana 1<sup>st</sup> §13A-12-213(a)(1) ..... 2

**PRESUMPTIVE**

***Class B offenses***

- Manufacturing Controlled Substance 2<sup>nd</sup> ..... 5
- A/S/C Manufacturing Controlled Substance 2<sup>nd</sup> ..... 5
- Poss with Intent to Distribute Controlled Sub ..... 5
- A/S/C Poss with Intent to Distribute Controlled Sub ..... 5
- Sale/Distribution of Marihuana (other than to minor) ..... 6
- A/S/C Sale/Distribution of Marihuana (other than to minor) ..... 6
- Sale/Distribution of Schedule I-V (other than to minor) ..... 6
- A/S/C Sale/Distribution of Schedule I-V (other than to minor) ..... 6

**PRESUMPTIVE**

***Class A offenses***

- Manufacturing Controlled Substance 1<sup>st</sup> ..... 8
- A/S/C Manufacturing Controlled Substance 1<sup>st</sup> ..... 8

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

**Score**

**Number of Prior Adult Felony Convictions** \_\_\_\_\_

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

**Score**

**Number of Prior Adult Convictions for Misdemeanors or Violations** \_\_\_\_\_

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

**Score**

**Prior Incarceration with *Unuspended* Sentence Imposed of 1 Year or More** ..... 3

**Score**

**Prior Felony Probation or Parole Revocation** ..... 1

**Score**

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

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

**Score**

**Possession/Use of a Deadly Weapon or Dangerous Instrument** ..... 2

**Score**

**Total Score**

**Disposition:**     Presumptive

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

**8 or more points: Prison**



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## INSTRUCTIONS - - Drug Sentence Length Worksheet

### 1. Case Information Section

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

### 2. Sentencing Factors Section

Complete prior to sentencing.

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

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

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

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

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

**9. Presumptive Sentence Range** - Go to the Drug 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. 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.

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**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 Sentence Length Worksheet

Eff. 10-1-2016

Defendant \_\_\_\_\_ Case No. \_\_\_\_\_

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

**PRESUMPTIVE**

***Class D offenses***

Poss of Controlled Substance .....	59
A/S/C Poss of Controlled Substance .....	59
Poss of Marihuana 1 <sup>st</sup> §13A-12-213(a)(2) .....	42
A/S/C Poss of Marihuana 1 <sup>st</sup> §13A-12-213(a)(2) .....	42

**PRESUMPTIVE**

***Class C offenses***

Felony DUI .....	76
Poss of Marihuana 1 <sup>st</sup> §13A-12-213(a)(1) .....	71
A/S/C Poss of Marihuana 1 <sup>st</sup> §13A-12-213(a)(1) .....	71

**PRESUMPTIVE**

***Class B offenses***

Manufacturing Controlled Substance 2 <sup>nd</sup> .....	105
A/S/C Manufacturing Controlled Substance 2 <sup>nd</sup> .....	105
Poss with Intent to Distribute Controlled Sub .....	105
A/S/C Poss with Intent to Distribute Controlled Sub .....	105
Sale/Distribution of Marihuana (other than to minor) .....	84
A/S/C Sale/Distribution of Marihuana (other than to minor) .....	84
Sale/Distribution of Schedule I-V (other than to minor) .....	113
A/S/C Sale/Distribution of Schedule I-V (other than to minor) .....	113

**PRESUMPTIVE**

***Class A offenses***

Manufacturing Controlled Substance 1 <sup>st</sup> .....	286
A/S/C Manufacturing Controlled Substance 1 <sup>st</sup> .....	286

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

**Score**

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

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

**Score**

**Number of Prior Adult Felony Convictions**

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

**Score**

**Number of Prior Adult Felony Class C & Class D Convictions**

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

**Score**

**Prior Incarceration with *Unuspended* Sentence Imposed of 1 Year or More** ..... 14

**Score**

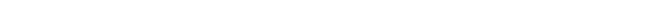
**See Drug Sentence Length Table**

**Presumptive**

**Total Score**

**Sentence Range** \_\_\_\_\_ to \_\_\_\_\_ (straight) \_\_\_\_\_ to \_\_\_\_\_ (split)

**Judge's Signature/Initial**



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## Drug Prison Sentence Length Ranges for Worksheet

Time in Months

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



<b>Score</b>	<b>Total Sentence</b>			<b>Time to Serve On Split</b>		
	<b>Low</b>	<b>Mid</b>	<b>High</b>	<b>Low</b>	<b>Mid</b>	<b>High</b>
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
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

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<b>Score</b>	<b>Total Sentence</b>			<b>Time to Serve On Split</b>		
	<b>Low</b>	<b>Mid</b>	<b>High</b>	<b>Low</b>	<b>Mid</b>	<b>High</b>
<b>166</b>	30	67	104	12	20	27
<b>167</b>	30	67	104	12	20	27
<b>168</b>	30	67	104	12	20	27
<b>169</b>	30	67	104	12	20	27
<b>170</b>	30	67	104	12	20	27
<b>171</b>	30	67	104	12	20	27
<b>172</b>	36	70	104	12	20	27
<b>173</b>	36	70	104	12	20	27
<b>174</b>	36	70	104	12	20	27
<b>176</b>	36	70	104	12	20	27
<b>177</b>	36	70	104	12	24	36
<b>178</b>	36	70	104	12	24	36
<b>181</b>	45	87	130	16	26	36
<b>182</b>	45	87	130	16	26	36
<b>183</b>	45	87	130	16	26	36
<b>184</b>	45	87	130	16	26	36
<b>185</b>	45	87	130	16	26	36
<b>188</b>	45	87	130	24	30	36
<b>189</b>	45	87	130	24	30	36
<b>191</b>	45	87	130	24	30	36
<b>192</b>	45	87	130	24	30	36
<b>195</b>	45	87	130	24	30	36
<b>196</b>	45	87	130	24	30	36
<b>198</b>	45	87	130	24	30	36
<b>199</b>	45	87	130	24	30	36
<b>200</b>	45	87	130	24	30	36
<b>203</b>	45	87	130	24	30	36
<b>205</b>	45	87	130	24	30	36
<b>206</b>	45	87	130	24	30	36
<b>212</b>	45	87	130	24	30	36
<b>213</b>	45	87	130	24	30	36
<b>214</b>	45	87	130	24	30	36
<b>220</b>	45	87	130	24	30	36
<b>222</b>	45	87	130	24	30	36
<b>227</b>	45	87	130	24	30	36
<b>232</b>	45	87	130	24	30	36
<b>235</b>	45	87	130	24	30	36
<b>242</b>	45	87	130	24	30	36
<b>250</b>	50	90	130	24	30	36
<b>255</b>	50	90	130	24	30	36
<b>258</b>	60	95	130	24	30	36
<b>262</b>	60	95	130	24	30	36
<b>270</b>	60	95	130	24	30	36
<b>276</b>	70	100	130	24	30	36
<b>280</b>	70	100	130	24	30	36
<b>286</b>	120	150	180	24	30	36
<b>300</b>	120	150	180	24	30	36
<b>315</b>	120	150	180	24	30	36
<b>320</b>	180	210	240	36	48	60
<b>345</b>	180	210	240	36	48	60
<b>360</b>	180	210	240	36	48	60
<b>381</b>	180	210	240	36	48	60

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The Property offenses listed below are covered by the Sentencing Standards subject to Presumptive Sentencing Recommendations, other than Burglary 1<sup>st</sup> §13A-7-5, Burglary 2<sup>nd</sup> §13A-7-6, and Burglary 3<sup>rd</sup> §13A-7-7(a)(1)-(2) which are subject to Voluntary Sentencing Recommendations.

<b>Most Serious Offense at Conviction Ranking</b>	
Burglary 1 <sup>st</sup> §13A-7-5	Theft of Lost Property 1 <sup>st</sup> §13A-8-7
Burglary 2 <sup>nd</sup> §13A-7-6	Theft of Lost Property 2 <sup>nd</sup> §13A-8-8
Burglary 3 <sup>rd</sup> §13A-7-7(a)(1)-(3)	Theft of Lost Property 3 <sup>rd</sup> §13A-8-8.1
Forgery 1 <sup>st</sup> §13A-9-2	Theft of Property 1 <sup>st</sup> * §13A-8-3
Forgery 2 <sup>nd</sup> §13A-9-3	Theft of Property 2 <sup>nd</sup> * §13A-8-4
Forgery 3 <sup>rd</sup> §13A-9-3.1	Theft of Property 3 <sup>rd</sup> * §13A-8-4.1
Possession of a Forged Instrument 1 <sup>st</sup> §13A-9-5	Theft of Services 1 <sup>st</sup> §13A-8-10.1
Possession of a Forged Instrument 2 <sup>nd</sup> §13A-9-6	Theft of Services 2 <sup>nd</sup> §13A-8-10.2
Possession of a Forged Instrument 3 <sup>rd</sup> §13A-9-6.1	Theft of Services 3 <sup>rd</sup> §13A-8-10.25
Receiving Stolen Property 1 <sup>st</sup> §13A-8-17	Unauthorized Use/Break & Enter Vehicle §13A-8-11 (a)(4) & (b)
Receiving Stolen Property 2 <sup>nd</sup> §13A-8-18	Unlawful Possession/Use Credit/Debit Card §13A-9-14
Receiving Stolen Property 3 <sup>rd</sup> §13A-8-18.1	

\*Includes every manner of committing Theft of Property offenses enumerated in Ala.Code § 13A-8-2(a).



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## INSTRUCTIONS - - Property Prison In/Out Worksheet

### 1. Case Information Section

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

### 2. Sentencing Factors Section

Complete prior to sentencing.

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

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

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

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

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

**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. 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. The imposition of intermediate sanctions (pursuant to § 15-22-29, § 15-22-32, § 15-22-52, and § 15-22-54) in response to a probation/parole violation to include periods of confinement in jail or prison should not be counted.

**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.*

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

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

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

### **Disposition**

**14. Non-Prison: 8-14 Points**

Circle “non-prison” as the disposition.

**15. Prison: 15 or more points**

Circle “prison” as the 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 Property 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 Prison In/Out Worksheet

Eff. 10-1-2016

Defendant \_\_\_\_\_ Judge \_\_\_\_\_  
 Case No. \_\_\_\_\_ Prosecutor \_\_\_\_\_  
 Worksheet Preparer \_\_\_\_\_ Defense Attorney \_\_\_\_\_

**Most Serious Conviction Offense** \_\_\_\_\_ Please circle one *offense*

**PRESUMPTIVE**

***Class D offenses***

- Forgery 3<sup>rd</sup> ..... 8
- Poss/Use Credit/Debit Card ..... 8
- Poss Forged Instrument 3<sup>rd</sup> ..... 8
- Receive Stolen Property 3<sup>rd</sup> ..... 8
- Theft of Lost Property 3<sup>rd</sup> ..... 8
- Theft of Property 3<sup>rd</sup> ..... 8
- Theft of Services 3<sup>rd</sup> ..... 8

**VOLUNTARY**

- Burglary 3<sup>rd</sup> (C) §13A-7-7(a)(1)&(2) ..... 12
- Burglary 2<sup>nd</sup> (B) ..... 13
- Burglary 1<sup>st</sup> (A) ..... 14

**PRESUMPTIVE**

***Class C offenses***

- Burglary 3<sup>rd</sup> §13A-7-7(a)(3) ..... 11
- Forgery 2<sup>nd</sup> ..... 9
- Poss Forged Instrument 2<sup>nd</sup> ..... 9
- Receive Stolen Property 2<sup>nd</sup> ..... 9
- Theft of Lost Property 2<sup>nd</sup> ..... 9
- Theft of Property 2<sup>nd</sup> ..... 9
- Theft of Services 2<sup>nd</sup> ..... 9
- Unauthorized Use/B&E Vehicle ..... 9

**PRESUMPTIVE**

***Class B offenses***

- Forgery 1<sup>st</sup> ..... 10
- Poss Forged Instrument 1<sup>st</sup> ..... 10
- Receive Stolen Property 1<sup>st</sup> ..... 10
- Theft of Lost Property 1<sup>st</sup> ..... 10
- Theft of Property 1<sup>st</sup> ..... 10
- Theft of Services 1<sup>st</sup> ..... 10

Score

**Number of Prior Adult Felony Convictions** \_\_\_\_\_

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

Score

**Number of Prior Adult Convictions for Same Felony** \_\_\_\_\_

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

Score

**Number of Prior Adult Convictions for Misdemeanors or Violations** \_\_\_\_\_

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

Score

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

Score

**Prior Incarceration with *Unuspended* Sentence Imposed of Less Than 1 Year** ..... 3

Score

**Prior Felony Probation or Parole Revocation** ..... 2

Score

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

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

Score

**Possession/Use of a Deadly Weapon or Dangerous Instrument** ..... 1

Score

**Injury to Victim** ..... 2

Score

**Total Score**

**Disposition:**     Voluntary     Presumptive

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

**15 or more points: Prison**





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## INSTRUCTIONS - - Property Sentence Length Worksheet

### 1. Case Information Section

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

### 2. Sentencing Factors Section

Complete prior to sentencing.

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

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

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

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

**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. The imposition of intermediate sanctions (pursuant to § 15-22-29, § 15-22-32, § 15-22-52, and § 15-22-54) in response to a probation/parole violation to include periods of confinement in jail or prison should not be counted.

**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.

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

**12. Sentence Range** - Go to the Property Sentence Length Ranges for Worksheet Table to convert the score into a presumptive or voluntary sentence length depending on most serious conviction offense. Record the presumptive or voluntary 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 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. 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 Sentence Length Worksheet

Eff.10-1-2016

Defendant \_\_\_\_\_ Case No. \_\_\_\_\_

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

**PRESUMPTIVE**

***Class D offenses***

- Forgery 3<sup>rd</sup> ..... 39
- Poss/Use Credit/Debit Card..... 39
- Poss Forged Instrument 3<sup>rd</sup>..... 39
- Receive Stolen Property 3<sup>rd</sup>..... 39
- Theft of Lost Property 3<sup>rd</sup> ..... 39
- Theft of Property 3<sup>rd</sup> ..... 39
- Theft of Services 3<sup>rd</sup> ..... 39

**VOLUNTARY**

- Burglary 3<sup>rd</sup> (C) §13A-7-7(a)(1)&(2) ..... 55
- Burglary 2<sup>nd</sup> (B) ..... 70
- Burglary 1<sup>st</sup> (A) ..... 275

**PRESUMPTIVE**

***Class C offenses***

- Burglary 3<sup>rd</sup> §13A-7-7(a)(3) ..... 47
- Forgery 2<sup>nd</sup> ..... 47
- Poss Forged Instrument 2<sup>nd</sup>..... 47
- Receive Stolen Property 2<sup>nd</sup> ..... 47
- Theft of Lost Property 2<sup>nd</sup> ..... 47
- Theft of Property 2<sup>nd</sup> ..... 47
- Theft of Services 2<sup>nd</sup> ..... 47
- Unauthorized Use/B&E Vehicle.....47

**PRESUMPTIVE**

***Class B offenses***

- Forgery 1<sup>st</sup> ..... 58
- Poss Forged Instrument 1<sup>st</sup>..... 58
- Receive Stolen Property 1<sup>st</sup>..... 58
- Theft of Lost Property 1<sup>st</sup>..... 58
- Theft of Property 1<sup>st</sup> ..... 58
- Theft of Services 1<sup>st</sup> ..... 58

Score

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

- |              |                    |
|--------------|--------------------|
| None ..... 0 | 2 ..... 10         |
| 1 ..... 5    | 3 or more ..... 15 |

Score

**Number of Prior Adult Felony Convictions**

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

Score

**Number of Prior Adult Felony Property Convictions**

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

Score

**Prior Incarceration with *Unuspended* Sentence Imposed of 1 Year or More** ..... 15

Score

**Prior Felony Probation or Parole Revocation** ..... 7

Score

**Possession/Use of a Deadly Weapon/Dangerous Instrument or Injury to Victim** ..... 37

Score

**Acquired a Firearm During Offense** ..... 12

Score

**See Property Sentence Length Table**

**Total Score**

Voluntary       Presumptive

**Sentence Range** \_\_\_\_\_ to \_\_\_\_\_ (straight)      \_\_\_\_\_ to \_\_\_\_\_ (split)

**Judge's Signature/Initial**

\_\_\_\_\_



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## Property Prison Sentence Length Ranges for Worksheet

Time in Months

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

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

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<b>Score</b>	<b>Total Sentence</b>			<b>Time to Serve On Split</b>		
	<b>Low</b>	<b>Mid</b>	<b>High</b>	<b>Low</b>	<b>Mid</b>	<b>High</b>
<b>137</b>	54	85	115	6	12	19
<b>138</b>	54	85	115	6	12	19
<b>139</b>	54	85	115	6	12	19
<b>140</b>	54	85	115	6	12	19
<b>141</b>	54	85	115	6	12	19
<b>142</b>	54	85	115	6	12	19
<b>143</b>	54	85	115	6	12	19
<b>144</b>	76	95	115	6	12	19
<b>145</b>	76	95	115	6	12	19
<b>146</b>	76	95	115	6	12	19
<b>147</b>	76	95	115	6	12	19
<b>148</b>	76	95	115	6	12	19
<b>149</b>	76	95	115	6	12	19
<b>150</b>	76	95	115	6	12	19
<b>151</b>	76	95	115	12	15	19
<b>152</b>	76	95	115	12	15	19
<b>153</b>	76	95	115	12	15	19
<b>154</b>	76	95	115	12	15	19
<b>155</b>	76	95	115	12	15	19
<b>156</b>	76	95	115	12	15	19
<b>157</b>	76	95	115	12	15	19
<b>158</b>	76	95	115	12	15	19
<b>159</b>	76	95	115	12	15	19
<b>160</b>	76	95	115	12	15	19
<b>161</b>	76	95	115	12	15	19
<b>162</b>	76	95	115	12	15	19
<b>163</b>	76	95	115	12	15	19
<b>164</b>	76	95	115	12	15	19
<b>165</b>	76	95	115	12	15	19
<b>166</b>	76	95	115	12	15	19
<b>167</b>	76	95	115	12	15	19
<b>168</b>	81	102	123	12	15	19
<b>169</b>	81	102	123	12	15	19
<b>170</b>	81	102	123	12	18	25
<b>171</b>	81	102	123	12	18	25
<b>172</b>	81	102	123	12	18	25
<b>173</b>	81	102	123	12	18	25
<b>174</b>	81	102	123	12	18	25
<b>175</b>	81	102	123	12	18	25
<b>176</b>	81	102	123	12	18	25
<b>177</b>	81	102	123	12	18	25
<b>178</b>	81	102	123	12	18	25
<b>179</b>	81	102	123	12	18	25
<b>180</b>	81	102	123	12	18	25
<b>181</b>	81	102	123	12	18	25
<b>182</b>	81	102	123	12	18	25
<b>183</b>	81	102	123	12	18	25
<b>184</b>	81	102	123	12	18	25



<b>Score</b>	<b>Total Sentence</b>			<b>Time to Serve On Split</b>		
	<b>Low</b>	<b>Mid</b>	<b>High</b>	<b>Low</b>	<b>Mid</b>	<b>High</b>
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
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

<b>Score</b>	<b>Total Sentence</b>			<b>Time to Serve On Split</b>		
	<b>Low</b>	<b>Mid</b>	<b>High</b>	<b>Low</b>	<b>Mid</b>	<b>High</b>
<b>294</b>	120	135	156	24	30	36
<b>299</b>	120	135	156	24	30	36
<b>302</b>	120	135	156	24	30	36
<b>304</b>	120	135	156	24	30	36
<b>306</b>	120	135	156	24	30	36
<b>308</b>	120	135	156	24	30	36
<b>309</b>	120	135	156	24	30	36
<b>311</b>	120	135	156	24	30	36
<b>312</b>	120	135	156	24	30	36
<b>313</b>	120	135	156	24	30	36
<b>314</b>	120	135	156	24	30	36
<b>317</b>	120	135	156	24	30	36
<b>318</b>	120	150	180	24	30	36
<b>320</b>	120	150	180	24	30	36
<b>321</b>	120	150	180	24	30	36
<b>323</b>	120	150	180	24	30	36
<b>324</b>	120	150	180	24	30	36
<b>326</b>	120	150	180	24	30	36
<b>329</b>	120	150	180	24	30	36
<b>331</b>	120	150	180	24	30	36
<b>333</b>	120	150	180	24	30	36
<b>335</b>	120	150	180	24	30	36
<b>336</b>	120	150	180	24	30	36
<b>338</b>	120	150	180	24	30	36
<b>339</b>	120	150	180	24	30	36
<b>341</b>	120	150	180	24	30	36
<b>342</b>	120	150	180	24	30	36
<b>343</b>	120	150	180	24	30	36
<b>345</b>	120	150	180	24	30	36
<b>347</b>	120	150	180	24	30	36
<b>350</b>	120	150	180	24	30	36
<b>351</b>	120	150	180	24	30	36
<b>353</b>	144	192	240	36	48	60
<b>356</b>	144	192	240	36	48	60
<b>358</b>	144	192	240	36	48	60
<b>359</b>	144	192	240	36	48	60
<b>362</b>	144	192	240	36	48	60
<b>363</b>	144	192	240	36	48	60
<b>364</b>	144	192	240	36	48	60
<b>369</b>	144	192	240	36	48	60
<b>370</b>	144	192	240	36	48	60
<b>375</b>	144	192	240	36	48	60
<b>380</b>	144	192	240	36	48	60
<b>382</b>	144	192	240	36	48	60
<b>385</b>	144	192	240	36	48	60
<b>396</b>	144	192	240	36	48	60
<b>404</b>	144	192	240	36	48	60
<b>418</b>	144	192	240	36	48	60



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

**Most Serious Offense at Conviction Ranking**

Assault 1<sup>st</sup>  
§13A-6-20

Assault 2<sup>nd</sup>  
§13A-6-21

Manslaughter  
§13A-6-3

Murder  
§13A-6-2

Rape 1<sup>st</sup>  
§13A-6-61

Rape 2<sup>nd</sup>  
§13A-6-62

Robbery 1<sup>st</sup>  
§13A-8-41

Robbery 2<sup>nd</sup>  
§13A-8-42

Robbery 3<sup>rd</sup>  
§13A-8-43

Sodomy 1<sup>st</sup>  
§13A-6-63

Sodomy 2<sup>nd</sup>  
§13A-6-64



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## INSTRUCTIONS - - Personal Prison In/Out Worksheet

### 1. Case Information Section

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

### 2. Sentencing Factors Section

Complete prior to sentencing.

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

### Recommendation Section

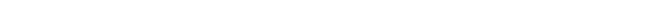
#### 9. Non-Prison: 1-7 Points

Circle “non-prison” as the voluntary disposition.

#### 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

Defendant \_\_\_\_\_ Case No. \_\_\_\_\_  
 Judge \_\_\_\_\_ Prosecutor \_\_\_\_\_  
 Probation Officer \_\_\_\_\_ Defense Attorney \_\_\_\_\_  
 Worksheet Preparer, Title \_\_\_\_\_ Additional Cases \_\_\_\_\_

## Most Serious Conviction Offense

Please circle one offense

- |                                 |  |
|---------------------------------|--|
| Assault 2 <sup>nd</sup> ..... 1 | Rape 2 <sup>nd</sup> , Sodomy 2 <sup>nd</sup> , Robbery 2 <sup>nd</sup> ..... 5              |
| Robbery 3 <sup>rd</sup> ..... 3 | Rape 1 <sup>st</sup> , Sodomy 1 <sup>st</sup> , Manslaughter, Robbery 1 <sup>st</sup> .... 8 |
| Assault 1 <sup>st</sup> ..... 4 | Murder ..... 10  |

Score

## Number of Prior Adult Felony Convictions

- |                   |
|-------------------|
| None..... 0       |
| 1 ..... 2         |
| 2 ..... 3         |
| 3 ..... 5         |
| 4 ..... 6         |
| 5 or more ..... 8 |

Score

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

- If Yes ..... 1

Score

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

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

Score

## Possession/Use of Deadly Weapon or Dangerous Instrument

- If Yes ..... 4

Score

**Recommendation**

**Total Score**

1-7 points: Non-Prison

8 or more points: Prison





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## INSTRUCTIONS - - Personal Prison Sentence Length Worksheet

### 1. Case Information Section

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

### 2. Sentencing Factors Section

Complete prior to sentencing.

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

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

**5. Number of Prior 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. 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. Total Score** – Total the scores from the Sentencing Factors Section.

**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. 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

Defendant \_\_\_\_\_ Case No. \_\_\_\_\_

## Most Serious Conviction Offense

Assault 2 <sup>nd</sup> .....	72	Sodomy 1 <sup>st</sup> .....	235
Sodomy 2 <sup>nd</sup> .....	81	Manslaughter .....	238
Robbery 3 <sup>rd</sup> .....	89	Robbery 1 <sup>st</sup> .....	374
Rape 2 <sup>nd</sup> .....	129	Rape 1 <sup>st</sup> .....	386
Assault 1 <sup>st</sup> .....	148	Murder .....	728
Robbery 2 <sup>nd</sup> .....	173		

Score

## 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

## Number of Prior Incarcerations with *Unuspended* Sentence Imposed of 1 Year or More

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

Score

## Prior Incarceration with *Unuspended* Sentence Imposed of Less Than 1 Year

If Yes ..... 33

Score

See Prison Sentence Length  
Recommendation Table

Total Score

Recommended Sentence Range \_\_\_\_\_ to \_\_\_\_\_ (straight) \_\_\_\_\_ to \_\_\_\_\_ (split)

Reason did **not** accept sentence length recommendation \_\_\_\_\_



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## Personal Prison Sentence Length Ranges for Worksheet

Time in Months

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

<b>Score</b>	<b>Total Sentence</b>			<b>Time to Serve On Split</b>		
	<b>Low</b>	<b>Mid</b>	<b>High</b>	<b>Low</b>	<b>Mid</b>	<b>High</b>
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

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<b>Score</b>	<b>Total Sentence</b>			<b>Time to Serve On Split</b>		
	<b>Low</b>	<b>Mid</b>	<b>High</b>	<b>Low</b>	<b>Mid</b>	<b>High</b>
<b>290</b>	101	153	204	18	33	48
<b>291</b>	101	153	204	18	33	48
<b>292</b>	101	153	204	18	33	48
<b>294</b>	101	153	204	18	33	48
<b>299</b>	101	153	204	18	33	48
<b>300</b>	101	153	204	18	33	48
<b>305</b>	101	153	204	18	33	48
<b>307</b>	101	153	204	18	33	48
<b>308</b>	101	153	204	18	33	48
<b>311</b>	101	153	204	22	41	60
<b>313</b>	101	153	204	22	41	60
<b>316</b>	101	153	204	22	41	60
<b>317</b>	101	153	204	22	41	60
<b>319</b>	101	153	204	22	41	60
<b>322</b>	101	153	204	22	41	60
<b>323</b>	101	153	204	22	41	60
<b>324</b>	101	153	204	22	41	60
<b>326</b>	117	161	204	22	41	60
<b>330</b>	117	161	204	22	41	60
<b>331</b>	117	161	204	22	41	60
<b>332</b>	117	161	204	22	41	60
<b>334</b>	117	161	204	22	41	60
<b>335</b>	117	161	204	22	41	60
<b>336</b>	117	161	204	22	41	60
<b>337</b>	117	161	204	22	41	60
<b>338</b>	117	161	204	22	41	60
<b>339</b>	117	161	204	24	42	60
<b>342</b>	117	161	204	24	42	60
<b>344</b>	117	161	204	24	42	60
<b>345</b>	117	161	204	24	42	60
<b>349</b>	117	161	204	24	42	60
<b>350</b>	117	161	204	24	42	60
<b>355</b>	117	161	204	24	42	60
<b>356</b>	117	161	204	24	42	60
<b>358</b>	117	161	204	24	42	60
<b>359</b>	117	161	204	24	42	60
<b>362</b>	117	161	204	24	42	60
<b>363</b>	117	161	204	24	42	60
<b>364</b>	117	161	204	24	42	60
<b>366</b>	117	161	204	24	42	60
<b>367</b>	117	161	204	24	42	60
<b>371</b>	117	186	255	24	42	60
<b>373</b>	117	186	255	24	42	60
<b>374</b>	117	186	255	24	42	60
<b>375</b>	117	186	255	24	42	60
<b>376</b>	117	186	255	24	42	60
<b>378</b>	117	186	255	24	42	60
<b>379</b>	117	186	255	24	42	60
<b>381</b>	117	186	255	24	42	60
<b>386</b>	117	186	255	24	42	60
<b>387</b>	117	186	255	24	42	60

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<b>Score</b>	<b>Total Sentence</b>			<b>Time to Serve On Split</b>		
	<b>Low</b>	<b>Mid</b>	<b>High</b>	<b>Low</b>	<b>Mid</b>	<b>High</b>
<b>389</b>	117	186	255	24	42	60
<b>393</b>	117	186	255	24	42	60
<b>400</b>	117	186	255	24	42	60
<b>403</b>	117	186	255	24	42	60
<b>404</b>	117	186	255	24	42	60
<b>405</b>	117	186	255	24	42	60
<b>406</b>	117	186	255	24	42	60
<b>407</b>	117	186	255	24	42	60
<b>409</b>	117	186	255	24	42	60
<b>411</b>	117	186	255	24	42	60
<b>412</b>	117	186	255	24	42	60
<b>414</b>	117	186	255	24	42	60
<b>418</b>	117	186	255	24	42	60
<b>419</b>	117	186	255	24	42	60
<b>423</b>	117	186	255	24	42	60
<b>425</b>	117	186	255	24	42	60
<b>426</b>	117	186	255	24	42	60
<b>427</b>	117	186	255	24	42	60
<b>428</b>	117	186	255	24	42	60
<b>430</b>	117	186	255	24	42	60
<b>431</b>	117	186	255	24	42	60
<b>436</b>	117	186	255	24	42	60
<b>437</b>	117	186	255	24	42	60
<b>438</b>	156	231	306	24	42	60
<b>439</b>	156	231	306	24	42	60
<b>442</b>	156	231	306	24	42	60
<b>444</b>	156	231	306	24	42	60
<b>449</b>	156	231	306	24	42	60
<b>450</b>	156	231	306	24	42	60
<b>451</b>	156	231	306	36	48	60
<b>455</b>	156	231	306	36	48	60
<b>456</b>	156	231	306	36	48	60
<b>457</b>	156	231	306	36	48	60
<b>458</b>	156	231	306	36	48	60
<b>460</b>	156	231	306	36	48	60
<b>461</b>	156	282	408	36	48	60
<b>462</b>	156	282	408	36	48	60
<b>463</b>	156	282	408	36	48	60
<b>465</b>	156	282	408	36	48	60
<b>467</b>	156	282	408	36	48	60
<b>470</b>	156	282	408	36	48	60
<b>474</b>	156	282	408	36	48	60
<b>475</b>	156	282	408	36	48	60
<b>476</b>	156	282	408	36	48	60
<b>477</b>	156	282	408	36	48	60
<b>483</b>	156	282	408	36	48	60
<b>487</b>	156	282	408	36	48	60
<b>491</b>	156	282	408	36	48	60
<b>493</b>	156	282	408	36	48	60
<b>494</b>	156	282	408	36	48	60
<b>495</b>	156	282	408	36	48	60

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<b>Score</b>	<b>Total Sentence</b>			<b>Time to Serve On Split</b>		
	<b>Low</b>	<b>Mid</b>	<b>High</b>	<b>Low</b>	<b>Mid</b>	<b>High</b>
<b>498</b>	156	282	408	36	48	60
<b>500</b>	156	282	408	36	48	60
<b>501</b>	156	282	408	36	48	60
<b>505</b>	156	282	408	36	48	60
<b>506</b>	156	588	1020	36	48	60
<b>507</b>	156	588	1020	36	48	60
<b>510</b>	156	588	1020	36	48	60
<b>512</b>	156	588	1020	36	48	60
<b>513</b>	156	588	1020	36	48	60
<b>520</b>	156	588	1020	36	48	60
<b>524</b>	156	588	1020	36	48	60
<b>526</b>	156	588	1020	36	48	60
<b>528</b>	156	588	1020	36	48	60
<b>529</b>	156	588	1020	36	48	60
<b>530</b>	156	588	1020	36	48	60
<b>531</b>	156	588	1020	36	48	60
<b>533</b>	156	588	1020	36	48	60
<b>540</b>	156	588	1020			
<b>543</b>	156	588	1020			
<b>544</b>	156	588	1020			
<b>545</b>	156	588	1020			
<b>548</b>	156	588	1020			
<b>550</b>	156	588	1020			
<b>551</b>	156	588	1020			
<b>552</b>	156	588	1020			
<b>553</b>	156	588	1020			
<b>556</b>	156	588	1020			
<b>558</b>	156	588	1020			
<b>562</b>	156	588	1020			
<b>564</b>	156	588	1020			
<b>582</b>	156	588	1020			
<b>590</b>	156	588	1020			
<b>594</b>	156	588	1020			
<b>595</b>	156	588	1020			
<b>601</b>	156	588	1020			
<b>602</b>	156	588	1020			
<b>607</b>	156	588	1020			
<b>619</b>	156	588	1020			
<b>620</b>	156	588	1020			
<b>627</b>	156	588	1020			
<b>632</b>	156	588	1020			
<b>652</b>	156	588	1020			
<b>665</b>	156	588	1020			
<b>676</b>	156	588	1020			
<b>677</b>	156	588	1020			
<b>684</b>	156	588	1020			
<b>688</b>	156	588	1020			
<b>695</b>	156	588	1020			
<b>701</b>	156	588	1020			
<b>706</b>	156	588	1020			
<b>709</b>	156	588	1020			

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<b>Score</b>	<b>Total Sentence</b>			<b>Time to Serve On Split</b>		
	<b><u>Low</u></b>	<b><u>Mid</u></b>	<b><u>High</u></b>	<b><u>Low</u></b>	<b><u>Mid</u></b>	<b><u>High</u></b>
<b>710</b>	156	588	1020			
<b>728</b>	156	588	1020			
<b>732</b>	156	588	1020			
<b>735</b>	234	627	1020			
<b>747</b>	234	627	1020			
<b>757</b>	234	627	1020			
<b>761</b>	234	627	1020			
<b>765</b>	234	627	1020			
<b>780</b>	234	627	1020			
<b>784</b>	234	627	1020			
<b>790</b>	234	627	1020			
<b>798</b>	234	627	1020			
<b>803</b>	234	627	1020			
<b>812</b>	234	627	1020			
<b>816</b>	234	627	1020			
<b>817</b>	234	627	1020			
<b>831</b>	234	627	1020			
<b>835</b>	234	627	1020			
<b>836</b>	234	627	1020			
<b>840</b>	234	627	1020			
<b>848</b>	234	627	1020			
<b>849</b>	234	627	1020			
<b>854</b>	234	627	1020			
<b>868</b>	234	627	1020			
<b>872</b>	234	627	1020			
<b>885</b>	234	627	1020			
<b>904</b>	234	627	1020			
<b>905</b>	234	627	1020			
<b>918</b>	234	627	1020			
<b>936</b>	234	627	1020			
<b>950</b>	234	627	1020			
<b>955</b>	234	627	1020			
<b>986</b>	234	627	1020			
<b>1010</b>	234	627	1020			
<b>1111</b>	234	627	1020			
<b>1126</b>	234	627	1020			
<b>1130</b>	234	627	1020			