



CRIMINAL PUNISHMENT CODE TASK FORCE Scoresheets Subcommittee Minutes

March 27, 2020 at 9AM

Conference Call

I. Members Present:

The Honorable Donna McIntosh (Chair)

Mr. Kenneth Steely

Professor Michael Morley

Absent:

Senator Jason Pizzo

The Honorable Larry Eger

II. Scoresheets Subcommittee

The subcommittee proposed analyzing the current offense severity ranking sheet and expanding the number of offense levels.

The remaining resolutions were renumbered to reflect the current working Appendix. Resolutions 7-9 are attached and slated to be discussed at the next meeting.

III. Subcommittee Working Objectives

The subcommittee's working objectives are as follows:

1. Review and make recommendations regarding offense severity rankings
 - a. Including uncharted
2. Review and make recommendations for sentencing points under the CPC.
 - a. What is the number of points necessary to trigger state sanctions?
 - b. Legal status
 - c. Review sentencing range- lowest and highest permissible.
 - d. Review points for primary, additional, and prior offenses
3. Mitigating Factors
4. Downward Departures

IV. Adjourn

10:05 AM

REVISED PROPOSED RESOLUTIONS

Proposed Resolution #7a – Increasing the number of offense levels

Resolved that the Legislature should increase the number of offense levels used to determine the number of points assigned to each offense. The Criminal Punishment Code currently classifies offenses into ten (10) different offense levels. More offense levels are necessary to ensure the accurately classification of offenses based on severity of the consequences each entails, the amount of money or quantities of goods or illicit substances involved, vulnerability of the victims, risk to public safety, and other relevant considerations. The number of offense levels should be increased to fifteen (15), and points should be attributed to each offense level as follows:

Existing Offense Level	Current Points		New Offense Level	Recommended Points
1	4		1	4
2	10		2	8
3	16		3	12
4	22		4	16
5	28		5	22
6	36		6	28
7	56		7	36
8	74		8	44
9	92		9	52
10	116		10	60
<i>Levels 1 – 4 (22 or less points): non-prison sanction may be required</i>			11	68
<i>Levels 1 – 6 (44 or less points): non-prison sanction possible</i>				
<i>Levels 7 – 10 (over 44 points): prison sentence required</i>				
			12	76
			13	84
			14	92
			15	108
			16	124

			<p><i>Levels 1 – 5 (22 or less points): non-prison sanction may be required</i></p> <p><i>Levels 1 – 8 (44 or less points): non-prison sanction possible</i></p> <p><i>Levels 9 – 16 (over 44 points): prison sentence required</i></p>	
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Proposed Resolution #7b – Increasing the number of felony degrees

Resolved that the Legislature should increase the number of felony degrees into which crimes are sorted, so that the maximum statutorily authorized penalty is more specifically and accurately calibrated to the severity of the consequences each offense entails, the amount of money or quantities of goods or illicit substances involved, vulnerability of the victims, risk to public safety, and other relevant considerations.

Existing Felony Degree	Maximum Sentence (years)	New Felony Degree	Maximum Sentence (years)
Third	5 years in prison, 5 years probation \$5,000 fine					Fifth	3 years in prison, 3 years probation, \$3,000 fine
Second	15 years in prison, 15 years probation, \$10,000 fine					Fourth	6 years in prison, 6 years probation \$6,000 fine
First	30 years in prison, 30 years probation, \$10,000 fine					Third	14 years in prison, 14 years probation, \$14,000 fine
Life	Life without parole, or imprisonment followed by lifetime probation \$15,000 fine					Second	20 years in prison, 20 years probation, \$20,000 fine
Capital	Death or life without parole					First	30 years in prison, 30 years probation \$30,000 fine
						Life	Life without parole \$40,000 fine
						Capital	Death or life without parole

Proposed Resolution #7c – Recategorize offenses based on offense level

Resolved that certain offenses have been assigned inappropriate offense levels, because those offense levels are either disproportionately harsh or unreasonably lenient in light of the magnitude and severity of the harm and risks the offenses cause. Offense levels for certain offenses should be increased or decreased, as appropriate, to more accurately reflect the gravity of those offenses and the harm they cause. In adjusting offense levels, offenses in which the statute includes additional aggravating factors or circumstances should be assigned a higher offense level than the ‘base’ offense that does not involve such aggravating factors.

Proposed Resolution #7d – Coordinate offense levels and felony degrees for each offenses

Resolved that all crimes assigned to each offense level shall share the same felony degree. A single offense level shall not include crimes of different felony degrees. The offense level for each crime shall be proportionate with its felony degree, and felony degrees for various offenses should be amended as necessary to implement these reforms.

Proposed Resolution #8 – Out of State Convictions

Resolved that, in Part IV of the Score Sheet, when calculating points for out-of-state, federal, military, or foreign convictions, each prior offense of which a defendant has been convicted shall be assigned an offense level and points based on the maximum statutorily authorized sentence for the offense of conviction, under the law of the jurisdiction of conviction, based on the following schedule:

i. If the maximum possible statutorily authorized sentence for the offense was **between one month and one year** in prison, inclusive, the offense level shall be set at 3, and 2 points shall be assigned.

[**NOTE: I'm not sure whether we need this category]

ii. If the maximum possible statutorily authorized sentence for the offense was **three years or less** (but over one year), the offense level shall be set at 5, and 4 points shall be assigned.

iii. If the maximum possible statutorily authorized sentence for the offense was **six years or less** (but over three years), the offense level shall be set at 7, and 10 points shall be assigned.

iv. If the maximum possible statutorily authorized sentence for the offense was **fourteen years or less** (but over six years), the offense level shall be set at 9, and 16 points shall be assigned.

v. If the maximum possible statutorily authorized sentence for the offense was **twenty years or less** (but over fourteen years), the offense level shall be set at 11, and 20 points shall be assigned.

vi. If the maximum possible statutorily authorized sentence for the offense was **thirty years or less** (but over twenty years), the offense level shall be set at 13, and 25 points shall be assigned.

vii. If the maximum possible statutorily sentence was **over thirty years, life** in prison (with or without the possibility of parole), or **death**, the offense level shall be set at 15, and 28 points shall be assigned.

Proposed Resolution #9 – Move Prior Serious Felony points to Prior Records Points

Resolved that additional points should not be added for a Serious Felony in Part VIII. Instead, the Prior Record points in Part IV for offenses that qualify as serious felonies should be increased to reflect the failure to apply this adjustment.

Under the current offense level system, these adjustments should be made as follows:

Offense Level	Current Prior Record Points in Part IV	Revised Prior Record Points in Part IV to Offset Eliminating Part VIII
8	19	37 (<i>i.e.</i> , add 18 points to current adjustment)
9	23	47 (<i>i.e.</i> , add 24 points to current adjustment)
10	29	59 (<i>i.e.</i> , add 30 points to current adjustment)

●The amount of the enhancement for Serious Felonies would generally be less under this proposal, but a defendant would be receiving it for **each prior serious felony**, potentially receiving a greater total number of points as a result.

●If the number of offense levels is increased from 10 to 16 as recommended above, the Prior Serious Felony adjustments should be applied at Offense Levels 13 through 16. The recommendation above could be applied as follows:

Offense Level	Prior Record Points to Assign in Part IV
13	40
14	48
15	54
16	60