



CRIMINAL PUNISHMENT CODE TASK FORCE Scoresheets Subcommittee Minutes

April 10, 2020 at 3PM

Conference Call

I. Members Present:

The Honorable Donna McIntosh (Chair)

Mr. Kenneth Steely

Professor Michael Morley

Senator Jason Pizzo

The Honorable Larry Eger

Ms. Kathryn Horst on behalf of Mr. Steely

II. Scoresheets Subcommittee

The subcommittee reviewed and revised the offense severity ranking sheet to account for continuity issues. Additionally, the subcommittee walked through the original ranking sheet to reclassify certain offenses, raising or lowering their ranking, as depicted on the attached meeting materials.

At the next meeting, Senator Pizzo is slated to present 3 spreadsheets: One depicting 16 offense severity levels with 5 felony degrees, another depicting 16 offense severity levels with 3 felony degrees, and an amended offense severity ranking sheet depicting 10 offense severity levels and 3 felony degrees containing the edits voted upon unanimously at this meeting.

The subcommittee voted on the following 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.

This resolution passed unanimously, with a motion made to adjust the proposed chart from 15 offense severity levels to 16.

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.

This resolution passed unanimously. Senator Pizzo clarified that these resolutions would not impact minimum mandatories.

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.

This motion passed unanimously.

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.

This resolution passed unanimously.

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: Passed unanimously amongst the subcommittee.

The subcommittee ultimately decided to table resolution eight given how labor intensive it is in relation to how time-limited the task force is.

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.

If adopted, the subcommittee recommends removing paragraph 8 and clarifying language in paragraph 4 of the scoresheet instructing how to add points for clarity. New language will be made available at future meetings. This resolution passed 4-1, with Mr. Eger in dissent.

III. Adjourn

6:20 PM