



## CRIMINAL PUNISHMENT CODE TASK FORCE Scoresheets Subcommittee Minutes

**April 27, 2020 at 2PM**

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

### **II. Scoresheets Subcommittee**

The subcommittee continued its efforts to walk through the offense severity ranking sheet.

Senator Pizzo noted that on Part 9 of the scoresheet there are enhancements, such as Motor Vehicle Theft, which currently sits at level 6 as a third-degree felony. It gets a multiplier of 1.5, which bumps it to 54 points. Professor Morley recommends that it should be raised to a level 10 to account for the multiplier and achieve the 54 points, were it to be removed. Instead, Senator Pizzo suggests level 8 as a third-degree felony, noting that someone who commits the same crime three or more times should have a separate subsection.

Professor Morley noted that once you begin removing enhancements, extra severity levels, i.e. 17-20, are necessary to fully reflect the elimination of the enhancement.

Senator Pizzo challenged that this is less about points and more about exposure. Judge McIntosh agreed by saying the points should not govern where offenses go on the spreadsheet but the subcommittee should instead pay close attention to the maximum prison sentence.

Senator Pizzo urges the subcommittee to leave sexual offense, drug trafficking, and law enforcement protection should remain where they are on the scoresheet with multipliers, but motor vehicle theft, domestic violence and criminal gang offense should come off and can be reconciled within the new levels.

Senator Pizzo argued that drug trafficking and criminal gang offense multipliers are actually discretionary with the court as intended by the Legislature. Judge Sisco countered that when there are plea negotiations this does not necessarily apply. Judge McIntosh offered that the subcommittee should leave criminal gang offense on the scoresheet with drug trafficking.

Senator Pizzo clarified that every offense that scored prison originally, scores prison now.

Levels 17-20, as proposed by Professor Morley would only be engaged if enhancements were applied to account for removed enhancements.

The subcommittee worked through the spreadsheet containing 5 felony degrees and 16 offense severity levels, discussing and recategorizing certain offenses.

The subcommittee will continue discussion of the spreadsheet and resolve caselaw issues 2-4 on April 29, 2020.

### **III. Public Comment**

The Honorable Michelle Sisco, Chair of the Task Force, inquired if the offense severity levels would be severable. The subcommittee clarified that they would be, as illustrated in their 3 felony degree and 16 offense severity level spreadsheet. Judge Sisco expressed concern that some offenses should be ranked higher than currently presented.

### **IV. Adjourn**

6:20 PM