

**Maryland General Assembly  
Department of Legislative Services**

**Proposed Regulations  
Independent Agencies**  
(DLS Control No. 16-156)

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## **Overview and Legal and Fiscal Impact**

These regulations (1) clarify the types of cases that are covered by the sentencing guidelines; (2) revise the definition for “guidelines offense”; (3) update the instructions for the computation of an offender score to indicate that adjudications based on acts that are no longer criminal offenses and expunged or expungable adjudications shall be excluded from the prior adult criminal record of the offender; (4) add and amend offenses with October 1, 2016 enactment dates; (5) add previously unclassified offenses; and (6) make other minor edits to the table.

The regulations present no legal issues of concern.

There is no fiscal impact on State or local agencies.

## **Regulations of COMAR Affected**

### **Independent Agencies:**

Commission on Criminal Sentencing Policy: General Regulations: COMAR 14.22.01.01  
General Regulations: COMAR 14.22.01.02  
General Regulations: COMAR 14.22.01.10  
Criminal Offenses and Seriousness Categories: COMAR 14.22.02.01  
Criminal Offenses and Seriousness Categories: COMAR 14.22.02.02

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## **Legal Analysis**

### **Background**

The Commission on Criminal Sentencing Policy was created to support fair and proportional sentencing policy, increase equity in criminal sentencing practice, promote increased visibility, and aid public understanding of the sentencing process. The commission is responsible for oversight of the State’s voluntary sentencing guidelines; collecting sentencing guidelines worksheets; maintaining the sentencing guidelines database; monitoring circuit court sentencing practice; adopting changes to the guidelines consistent with the legislative intent when necessary; and providing training and orientation to criminal justice practitioners who apply the sentencing guidelines

### **Summary of Regulations**

The regulations clarify that sentencing hearings in response to a violation of probation and criminal nonsupport and criminal contempt are sentencing matters that should be excluded from the sentencing guidelines. COMAR 14.22.01.01A(5) and (6). Additionally, the regulations revise the definition of “guidelines offense” to specifically exclude sentencing hearings in response to a violation of probation and criminal nonsupport and criminal contempt. COMAR 14.22.01.02B(7)(c).

The regulations update the instructions for the computation of the offender score to indicate that adjudications based on acts that are no longer criminal offenses and that have been expunged or expungable adjudications must now be excluded from the prior adult criminal record of the offender. Likewise, if an out of jurisdiction conviction is based on act that is not a criminal violation in Maryland, that conviction must be excluded from the prior adult criminal record as well. The regulations also clarify that, for the purposes of computing an offender’s score, the offender is considered “in the criminal justice system” if the offender was on parole, on probation, incarcerated, on work release, on mandatory supervision, was an escapee, or had a comparable status at the time the offense was committed. An offender is not considered in the criminal justice system if the offender was on unsupervised probation for an offense not punishable by imprisonment. COMAR 14.22.01.10B(3)(a), (d), and (f).

Finally, the regulations modify the table of seriousness categories to reflect new and amended offenses and to include previously unclassified offenses, including citations to the new Alcoholic Beverages Article, assault offenses, marijuana, election offenses, and manslaughter. COMAR 14.22.02.02.

## **Legal Issues**

The regulations present no legal issues of concern.

## **Statutory Authority and Legislative Intent**

The commission cites § 6-211 of the Criminal Procedure Article as statutory authority for the regulations. Section 6-211 requires the commission to adopt as regulations sentencing guidelines and any changes to those sentencing guidelines.

This authority is correct and complete. The regulations comply with the legislative intent of the law.

## **Fiscal Analysis**

There is no fiscal impact on State or local agencies.

## **Agency Estimate of Projected Fiscal Impact**

The Maryland State Commission on Criminal Sentencing Policy advises that the regulations have no fiscal impact on State or local governments. The Department of Legislative Services concurs.

## **Impact on Budget**

There is no impact on the State operating or capital budget.

## **Agency Estimate of Projected Small Business Impact**

The commission advises that the regulations have minimal or no economic impact on small businesses in the State. The Department of Legislative Services concurs.

## **Contact Information**

**Legal Analysis:** John J. Joyce – (410) 946/(301) 970-5350

**Fiscal Analysis:** Shirleen M. Pilgrim – (410) 946/(301) 970-5510