

**Maryland General Assembly
Department of Legislative Services**

**Proposed Regulations
Independent Agencies**
(DLS Control No. 20-010)

Overview and Legal and Fiscal Impact

The General Regulations for the Commission on Criminal Sentencing Policy are amended to modify a certain definition, clarify the instructions for determining the seriousness category and offense type for conspiracy to commit a lawful act by unlawful means, modify the computation of the offender score, and modify the list of offense headings and the table of seriousness categories (guidelines offense table). These revisions reflect new and amended offenses, the classification of a previously unclassified offense, and minor edits to the table.

These regulations present no legal issue 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 14.22.01.02
General Regulations: COMAR 14.22.01.08
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

Legal Analysis

Background

The Maryland State 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

COMAR 14.22.01.02B(1)(e) provides that a finding of guilt by a general or special court-martial may be considered as an “adjudication” when calculating the prior adult criminal record component of the offender score for an offender’s sentencing guidelines.

COMAR 14.22.01.08C(2) clarifies in the instructions for determining the seriousness category and offense type classification that conspiracy to commit a lawful act by unlawful means should be treated the same as the most serious unlawful means by which the lawful act is accomplished. The regulation further provides that a question on this matter should be brought to the attention of the judge at sentencing.

COMAR 14.22.01.10 provides that the prior adult criminal record component of the offender score should include certain military adjudications, but not others that have no equivalent in Maryland law. The regulation further provides that a question on this matter should be brought to the attention of the judge at sentencing.

COMAR 14.22.02.01 and .02, as amended, modify the list of offense headings and the guidelines offense table, classify a previously unclassified offense—conspiracy to commit a lawful act by unlawful means, reflect new and amended offenses, and make minor edits to the guidelines offense table.

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 these 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. These regulations comply with the legislative intent of the law.

Technical Corrections and Special Notes

In response to a suggestion from the Department of Legislative Services, staff for the commission agreed with revising the drafted language for COMAR 14.22.01.10D to strike the cross-reference in parentheses and substitute “provided in § B(3)(e) of this regulation”.

Fiscal Analysis

There is no fiscal impact on State or local agencies.

Agency Estimate of Projected Fiscal Impact

The commission advises that the regulations have no 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. The Department of Legislative Services concurs.

Contact Information

Legal Analysis: Benjamin S. Voight – (410) 946/(301) 970-5350

Fiscal Analysis: Amy A. Devadas – (410) 946/(301) 970-5510