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Date: August 29, 2014 at 6:04:07 PM EDT
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Subject: CSG Recommendations and Draft Legislation

I have been following the work of the Law Revision Commission on sentencing revisions with approval. I and a number of my colleagues in Criminal Justice work have been impressed with the Commission's focus on the goal of reducing recidivism, and on employing empirically based strategies. All of the proposed changes sentencing and to the sentencing guidelines would be improvements. However, I would respectfully suggest that a modest shift in the sentencing guidelines scoring criteria to allow for "positive scoring" in the guidelines would be an additional means to productively differentiate offenders. I would also suggest that such a mechanism would be a more direct and effective means of differentiation than the downward departure mechanism currently proposed in 769.34(3)(c).

Unlike federal sentencing guidelines, the current Michigan sentencing guidelines only score points for negative behaviors and negative histories. I would suggest that at least four criteria could be scored for positive behaviors, and potentially subtract from an offender's total OV and PRV scores.

First, evidence of attempts at rehabilitation could be scored. These are often externally verifiable. For example, a drunk driver will have roughly 90 days between charge and sentence, enough time to go to 90 AA meetings.

An offender could be scored deductive points if a minor participant in an event. The Federal guidelines contain this mechanism already.

An offender could be scored deductive points for engaging in mental health treatment. Many offenders suffer from mental illness. Some are previously undiagnosed, and the offense is the event which makes the illness noticed by the community. Others are noncompliant with previously established medications or counselling, and may reengage if given an incentive to do so. Any engagement on this axis would surely positively correlate with reduced recidivism.

Evidence of attempts at/progress at making amends to the victim, including a face to face apology if wanted by the victim, restitution, etc could be scored reductive points. While the proposed law allows for consideration of amends prior to charge, such behavior is rare. There is certainly no good argument for not rewarding post charge behaviors which help victims heal.

thanks for your consideration. David LaGrand