



# Missouri Sentencing Advisory Commission

## NOTE:

SMART SENTENCING INVOLVES USING THE LATEST IN STATISTICS, INFORMATION, RESEARCH FINDINGS AND EVIDENCED-BASED PRACTICE TO MAKE INFORMED DECISIONS ABOUT HOW TO PUNISH CRIMINAL BEHAVIOR.

THE SENTENCING ADVISORY COMMISSION HAS LAUNCHED THIS PERIODIC BULLETIN TO KEEP JUDICIAL DECISION MAKERS CURRENT AS TO THE LATEST INFORMATION RELATED TO SENTENCING PRACTICES AND THEIR IMPACTS. THE BULLETIN IS BEING DISTRIBUTED TO JUDGES, PROSECUTORS, PUBLIC DEFENDERS, PROBATION OFFICERS AND THE PUBLIC VIA EMAIL AND ON THE SAC WEB SITE AT [WWW.MOSAC.MO.GOV](http://WWW.MOSAC.MO.GOV).

COMMENTS AND SUGGESTIONS ARE WELCOME AND SHOULD BE SENT TO [SMART.SENTENCING@COURTS.MO.GOV](mailto:SMART.SENTENCING@COURTS.MO.GOV).

## MOSAC

*Is dedicated to supporting public safety, fairness and effectiveness in criminal sentencing.*

# SMART SENTENCING

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## *SENTENCING INFORMATION ON [WWW.MOSAC.MO.GOV](http://WWW.MOSAC.MO.GOV) NOW INCLUDES COSTS OF RECOMMENDED SENTENCES AND RISKS OF REINCARCERATION*

To enhance the availability of objective information for use in sentencing decisions, the Missouri Sentencing Advisory Commission has added data about the risk of being reincarcerated and the costs of sentences to its [online application](#) designed to help users determine inquiry-specific sentence recommendations.

This information is available to help Missouri judges, attorneys and probation officers identify sentences that have the best chances for reducing recidivism and are most cost-effective.

The two new information features use data about Missouri offenders to help answer these questions:

- What is the likelihood – under different sentencing options – that an offender with a specific prior criminal history who commits a specific offense will be reincarcerated?
- How much would each sentence option cost the state?

Based on Missouri statistics of actual offenders, the application provides recommended sentencing information for all felonies, as well as an offender risk-assessment rating and the amount of prison time likely to be served for particular offenses.

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The recommended sentences are based on statistical averages of sentences imposed by Missouri judges. Each crime has a “presumptive” sentence, which is the sentence most typically given for that offense by judges throughout the state; an “aggravated” sentence, where the circumstances of the crime or the risk presented by the offender justify a harsher sentence; and a “mitigated” sentence, where the circumstances of the crime or the risk presented by the offender justify a less severe sentence.

In all cases, the judges retain discretion to sentence within the range provided by the sentencing commission’s recommended sentence or to sentence to the maximum or the minimum punishment allowed by law for the offense.

The risk-assessment ratings for offenders are based on 11 factors – including prior criminal history, the crime committed, the offender’s education, age and employment status – that statistically are correlated to the risk that an offender is likely to be reincarcerated, either by committing another offense or by violating probation or parole.

The information about the cost of punishment is based on the average daily expense of keeping an offender in prison, plus the cost of parole supervision after prison; or the cost of supervising the offender on enhanced or regular probation. Prison costs \$16,823 per year per offender; probation costs \$1,354 per year; and enhanced probation (referred to as a community structured sentence) costs \$1,792 per year.

For each possible sentence, the recommended sentencing application provides the percentage of offenders who were incarcerated for a new offense or a violation of supervision within two years from the start of probation or release from prison.

### **Example – Sentencing Information for Second-Degree Robbery**

On the following pages is a printout of sentencing information from the website.

The offender is guilty of second-degree robbery, which is a forcible taking of property (without causing injury or using a gun, which is first-degree robbery). Second-degree robbery is a class B felony that carries a maximum prison sentence of 15 years.

The offender is a 20-year-old male and is classified as Level I, which means that he has no prior felonies. He has a high school diploma and has had a part-time job for the last two months. He is suspected of substance abuse. The sentencing information rates him as an “above-average” risk. For an offender with this prior criminal history and this risk rating, the sentencing information will provide the following recommended sentences based on data about other individuals sentenced in Missouri for this offense:

- *Presumptive Sentence:* Community structured sentence, a probation sentence with enhanced supervision. The cost for five years of supervision is \$1,792 per year, for a total of \$8,960. The rate of recidivism – which means incarceration because of violation of supervision or committing a new offense within two years – for offenders with this offender’s prior criminal history and risk rating is 29.7 percent.

- *Mitigating Sentence:* Regular probation. The cost per year is \$1,354, for a total of \$6,770. The recidivism rate is 29.7 percent for offenders with this

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individual's risk rating who are placed on probation for second-degree robbery.

- *Aggravating Sentence:* Five years in prison. A person with this offender's prior criminal history and risk rating can be expected to serve 62 percent of his five-year sentence, or 3.1 years. The cost the time spent in prison for his sentence is \$54,724 (3.1 years in prison at

\$16,823 per year plus 1.9 years on parole at \$1,354 per year). The rate of recidivism for such offenders within two years after release from prison is 39.6 percent.

- The recommended sentencing information also reports that a 120-day prison followed by probation (called "shock" probation) has a recidivism rate of 39.2 percent.

The web-based program can be used by logging on to the Sentencing Advisory Commission's website ([www.mosac.mo.gov](http://www.mosac.mo.gov)), clicking on "Automated Recommended Sentencing Information and Application," and following the instructions for entering the information about the offender and the offense.

On the following page is an example of a report using the information application for the second-degree robbery example.



# Missouri Sentencing Advisory Commission

## Offense Summary

Disclaimer: The following is provided for the purpose of determining a recommended sentence based on general facts of a crime and criminal background. This is not an official document for or of the court but is provided as a tool to assist in determining guidelines for a recommended sentence. Unauthorized use of this information is strictly prohibited.

Created: Mon Aug 16 02:34:40 CDT 2010  
Name (optional): Example No. 1

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### Offense

MO Charge Code: 12020  
Statute: 569.030  
Description: Robbery - 2nd degree  
Offense Group: Violent  
Charged As: Committed  
Felony Class: B  
Severity Level: Medium  
Prior Criminal History Level: I, No prior unrelated felony finding of guilt and no more than three misdemeanor/jail incarcerations of 30 days or more

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### Recommended Sentence\*

Statutory Restrictions:  
Mitigating: Probation  
Presumptive: Community-Structured Sentencing  
Aggravating: 5 years

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### Offender Risk Assessment

Gender: Male  
Risk Category: Above Average - - Score(1)  
The risk of the offender committing new offenses or other violations of supervision while on probation or parole. GOOD is the lowest risk, POOR is the highest risk.

The Sentencing Commission Recommended Sentence will be the Mitigating sentence if the Risk score is Good (low risk), or the Aggravating sentence if the Risk score is Below Average or Poor (high risk). In instances where the Risk score is Above Average or Average, the Sentencing Commission recommendation will be the Presumptive sentence.

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## Expected Time Served\*\*

If similar risk level determined by prison based factors

Applied Statutory

Restrictions:

Parole Release Guideline: 45% of sentence

Actual Time Served in FY09: 62% of sentence (excludes special statutory sentencing provisions)

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## Recidivism after two years\*\*\*

Recidivism based on: Specific Offense at Prior Criminal History Level I

Probation/CSS: 29.7%

120-Day Shock Probation or Institutional Drug Treatment: 39.2%

Prison: 39.6%

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## Costs of Incarceration and Supervision (FY09) \*\*\*\*

Mitigating Sentence: Probation - 5 years probation @ \$1,354 per year. Total Cost = \$6,770

Presumptive Sentence: Community Structured Sentence - 5 years enhanced probation @ \$1,792 per year. Total Cost = \$8,960

Aggravating Sentence: Prison - 5 years prison assuming expected actual time served of 62% = 3.1 years in prison @ \$16,823 per year + remaining sentence of 1.9 years on parole @ \$1,354 per year. Total Cost = \$54,724

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## Notes:

**Drug Courts:** *When convicted of a Drug, DWI or other Non-Violent offense and a community-based sentence is recommended, the commission recommends referral to a drug court subject to availability, defendant eligibility and where substance abuse was a contributing factor.*

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\* Sentences of 30 years include 30 years or greater or Life. Expected Time Served is subject to there being no minimum parole conditions or mandatory prison time to be served that exceeds the expected time served. Defendants convicted of a Dangerous Felony will be required to serve 85% before becoming eligible for parole.

Prior or Persistent Domestic Violence Offender (565.063, RSMo), Prior or Persistent Drug Offender (195.275, RSMo), Persistent or Predator Sex Offender (558.018, RSMo) and Missouri Charge Codes While there are Missouri Charge codes for offenses with special sentencing requirements for these Prior, Persistent, or Predator offenders, sometimes the sentencing requirements (increased felony class or probation/parole restrictions) are sentencing enhancements to the charge code. Please refer to the User Guide Appendix F for more details.

Definitions of abbreviations used in Statutory Restrictions:

CR = Conditional Release

DF = Dangerous Felony with date it became effective

LT Drug = Long-Term Drug

MAX = Maximum

MIN = Minimum

Moths = Months

NP = No Parole

NP/CR = No Parole or Conditional Release

Phi. Injury = Physical Injury

Prob = Probation

SES = Suspended Execution of Sentence

SHK = Shock Incarceration

SIS = Suspended Imposition of Sentence

Vic = Victim

Yrs = Years

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\*\* Expected time served in the DOC assumes that the Board of Probation and Parole will assess the offender at the same level of risk as in the MOSAC risk assessment. Time served is calculated for offenders not required to serve a minimum prison term for prior incarceration in the DOC.

\*\*\* First incarceration for a new offense or a violation of supervision within two years from the release from prison or the start of probation for offenders with the same level of prior criminal history. Recidivism rates are calculated from DOC sentencing and supervision data (see MOSAC web page Publications, recidivism). Where sufficient data for the offense and prior criminal history level are available, the rates are offense specific; otherwise the rates are for the offense group.

\*\*\*\* Costs of incarceration and supervision are computed by the Department of Corrections. Incarceration costs include direct costs, indirect costs and capital maintenance. Shock/Treatment costs are based upon the operational costs of DOC institutions that provide institutional substance programs. Probation and Parole costs are the average cost of other Non-Violent offenses and a community-based sentence is recommended, the commission recommends referral to a drug court subject to availability, defendant eligibility and where substance supervision per offender. CSS (enhanced supervision) includes an additional apportionment for community programs and enhanced supervision. Felony probation terms are assumed to be 5 years. Parole is calculated as the residual of the sentence less incarceration.