

The New Felony Sentencing Grid

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For the first time since 1995 we have a [new felony punishment chart for Structured Sentencing](#). Two pieces of legislation from the past session, [S.L. 2009-555](#) and [S.L. 2009-556](#), made changes that will become effective December 1, 2009 and apply to *offenses committed* on or after that date.

The first law restructures the point ranges for prior record level for felony sentencing. Perhaps most significantly, a person with one prior record point will, under the new law, still be considered Prior Record Level I for sentencing. The remaining levels are recalibrated so that each covers four points - under current law, Prior Record Level IV covers six points while the other levels cover four apiece. Defendants on the low end of the prior record scale will generally benefit from the change, whereas those with 14 or more points might find themselves in a higher level on the new grid.

The second law changes the minimum sentence durations for Class B1-G felonies so that they grow by a standard 15 percent increment as you move from left to right on the grid within a particular offense class. So, for example, if the minimum presumptive sentence for a Class E, Level I offender is 20 months, then the minimum presumptive sentence for a Class E, Level II is 15 percent greater than that (23 months); the minimum presumptive sentence for a Class E, Level III is 15 percent greater still (26 months); and so forth as you move across the grid. The range of minimum sentences in Prior Record Level I in each offense class is the same as under current law, and the ranges for Class H and I felonies remain unchanged. The effect of these changes on individual defendants varies depending on where they fall on the grid - sometimes the numbers are higher than they are under current law, sometimes lower.

This year's changes to the law were motivated - at least in part - by the projected shortfall of prison beds in the state in the coming years, and a realization that prison building alone could not accommodate the increased population. The table below shows the Sentencing Commission's projection of the combined estimated impact of the two bills. As you can see, on balance the changes result in a prison bed savings over the course of the next decade.

Fiscal year	Combined Impact
2010/11	-244
2011/12	-303
2012/13	-419
2013/14	-542
2014/15	-759
2015/16	-1,117
2016/17	-1,436

2017/18	-1,716
2018/19	-1,911
2019/20	-2,078

Longtime readers may recall that I wrote about these proposed changes back in February ([here](#)), noting that they stemmed from a Sentencing and Policy Advisory Commission [report](#) from 2002. That report discussed additional alternatives (involving the habitual felon and post-release supervision laws) that were projected to save as many as 5,000 beds over a decade. The new laws will help, but they alone won't be able to bridge the projected difference between population and system capacity - a gap expected to grow to nearly 7,500 by 2018, even with DOC employing its expanded operating capacity. You can learn more about the Sentencing Commission's ridiculously accurate prison population projections [here](#). You can also read about the broader costs of incarceration in a [blog post by our Dean](#), Mike Smith.

A printable version of the new chart is [here](#). (Thank you to the Sentencing Commission for providing it.)