

## Sentencing Range Discussion

Included in the Department of Corrections' (SCDC) February 19, 2020 letter to the House Legislative Oversight Committee (LOC). This information was provided in response to the following question in LOC's January 30, 2020, letter to the Department of Corrections: "38. Is SCDC in support of judges utilizing sentencing ranges? If so, please explain how SCDC would see the system working from the sentence to release, along with potential benefits and risks of using sentencing ranges."

In addition to providing the information in this document, SCDC provided the following response:

- Please see attached Sentencing Ranges.

### **Sentencing Ranges in South Carolina**

SCDC would support implementation if adopted by the General Assembly and approved by the Governor. Sentencing ranges, or indeterminate sentences, are sentences that consist of a minimum term of years and a maximum term of years, such as “six to ten years.” An inmate who is given such a sentence will serve no less than the minimum term and no more than the maximum term, but the credits the inmate earns while in prison determines exactly how long the inmate will serve. The principle behind indeterminate sentences is the hope that prison will rehabilitate inmates, since the prospect of earlier release gives prisoners an incentive to behave, work, and take advantage of educational opportunities while incarcerated. The use sentencing ranges – and the announcement of the range in open court – also provides a more accurate and realistic picture of the sentence to both the defendant and any victims involved in the case. However, since South Carolina has never utilized sentencing ranges, the process of implementing them for all criminal offenses would require an overhaul of the criminal statutes.

Alternatively, or in the meantime, South Carolina could adopt statutes that require sentencing judges to provide more detailed information to defendants and victims at the sentencing proceeding. (This would likely require that judges be provided additional training on how different types of sentences are calculated and how good time credits and earned work and education credits are applied.) For example, judges could be required to provide the following information on the record at all sentencing proceedings:

#### **For parolable offenses:**

Inmates serving sentences for “parolable” offenses - offenses that are eligible for parole consideration – generally serve somewhere between 51% and 65% of their sentences. Loss of good time credit for misbehavior and failure to work a productive duty assignment affect where an inmate falls within this range, and a substantial loss of credit or a consistent failure to work can cause an inmate to serve more than 65% of a parolable sentence. Under the law, inmates serving parolable sentences can earn 20 days of good time credit per month. These inmates can also earn work and education credits, which are capped at 180 days of credit per year.

#### **For 85% or “no parole” offenses:**

An inmate serving an 85% “no parole” offense is required by statute to serve at least 85% of the sentence. Good time credits and earned work credits can be applied to reduce the sentence from 100% to 85%. 85% inmates can earn a maximum of 3 days of good time credit per month and 6 days of earned work/education credits per month. Once an 85% inmate satisfies his sentence, he is required to be released to community supervision, a program under which the inmate is supervised by the South Carolina Department of Probation, Parole, and Pardon Services for a period of up to two years.