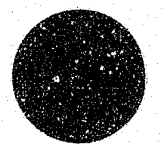


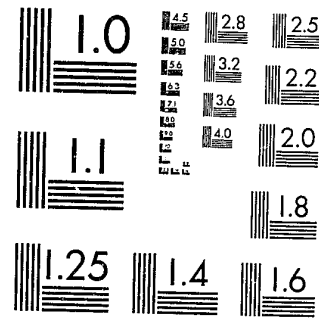
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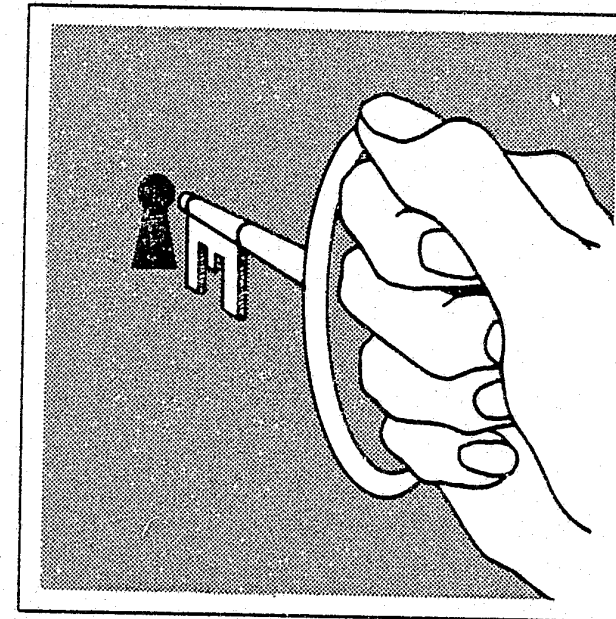
National Institute of Justice  
United States Department of Justice  
Washington, D. C. 20531

4-8-82

808601

September 1980

# DETERMINATE SENTENCING LAWS



A Comparison of the  
Provisions of State  
Determinate Sentencing Laws

Prepared by: The Criminal Justice Project of  
the National Conference of State Legislatures

U.S. Department of Justice  
National Institute of Justice

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## DETERMINATE SENTENCING LAWS

A Comparison of the Provisions  
of State Determinate Sentencing Laws

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## INTRODUCTION

### Background: Indeterminate Sentencing

Most states operate under indeterminate sentencing laws and although they differ from state to state, certain generalizations can be made about indeterminate systems. First, in many states indeterminate sentencing laws allow wide sentence ranges for certain crimes. For example, if the statutorily prescribed sentence for a particular crime is zero to 20 years, the actual sentence imposed could be zero to 20 years, 10 to 20 years, five years, or any other combination within lawful limits. Often, state laws prescribe a minimum and a maximum sentence to be imposed for a particular offense. Although statutory limits exist, there can be vast ranges of years between the limits.

Discretion is the second common characteristic found in indeterminate laws, although it is also found, but at different points, in a determinate system. The judge may use discretion to decide whether or not to sentence an offender to prison, and then determine the length of the sentence if imprisonment has been determined to be the appropriate sanction. After sentencing, the offender is placed in the custody of the state department of corrections. During the period of institutionalization, the paroling body has the authority to decide when the offender should be released.

Indeterminate sentencing evolved to tailor the punishment to the crime, with the intent of rehabilitating the criminal offenders so that when they re-entered the community they would be better equipped to become law-abiding citizens. Wide sentence ranges and discretion in sentencing were built into such laws to allow the judge to select the appropriate sentence for each offender. Discretion also allows the parole authority

time to consider when to parole an inmate, based on his progress toward rehabilitation, within statutory restrictions on minimum parole eligibility dates.

In recent years, many authorities have become disillusioned with the theory of rehabilitation as applied to corrections. Increasing crime rates are a major concern to the public, and rehabilitation methods have not significantly reduced recidivism. As a result, a trend toward punishing criminal behavior more severely has developed, and steps are being taken to restructure indeterminate sentencing laws toward this end.

In doing this, states have been careful to avoid known problems and to resolve many aspects of sentencing which are subject to criticism.

Such issues include:

1. Indeterminate sentencing often results in unwarranted disparities in sentences among offenders who commit similar crimes. Sentencing should be more uniform to ensure more fairness and equitability.
2. Punishment should reflect the severity of the crime. Too much discretion does not ensure that offenders will be punished appropriately. Further, discretion permits subjective and often unguided decisions to be made by judges and parole boards regarding the length of time to be served.
3. If decision-making is widely dispersed, accountability is diluted -- sometimes lost.
4. Under indeterminate systems, the inmate has no idea of the actual time that he or she will serve.
5. Sentence discrepancy creates resentment among inmates and contributes to institutional problems.

For these and other reasons, state legislatures have taken action to revise sentencing laws.

#### Background: Determinate Sentencing

Characteristically, determinate sentencing laws reduce the judge's discretion by limiting flexibility. Such laws achieve this by (1) limiting the applicable sentence to be imposed for different crimes, thereby reducing sentencing and parole discretion, and (2) requiring that any sentence imposed

be for a fixed number of years. The judge still has the discretion to utilize probation as an appropriate alternative.

To date, 13 states have adopted laws that are determinate in nature. These states are:

ALASKA	INDIANA	NORTH CAROLINA
ARIZONA	MAINE	PENNSYLVANIA
CALIFORNIA	MINNESOTA	TENNESSEE (Class X offenses, only)
COLORADO	NEW JERSEY	
ILLINOIS	NEW MEXICO	

The different goals states have when structuring their determinate sentencing system reflect a variety of approaches to the problems. The two major objectives surrounding the issues of determinate sentencing are: (1) equity and fairness, and (2) certainty of punishment.

Present determinate sentencing laws fall into three general categories:

"determinate-discretionary", a phrase coined by Michael Kannensohn of the Council of State Governments; presumptive; and sentencing guidelines.

Below is a brief description of each category.

#### "DETERMINATE-DISCRETIONARY":

A range is established for each class of crime but is usually much narrower than that under the indeterminate system. The sentencing authority does have discretion to select any sentence within the range, but cannot go outside the range. Any sentence imposed must be for a fixed term. Determinate sentences are not mandatory for most offenses, allowing discretion for probation or alternatives to prison. Some states using this system are Indiana, Illinois and Maine.

#### PRESUMPTIVE:

A specific sentence is set by law for each category of crime, and while discretion is not totally removed, sentencing is guided. Fixed sentences can be increased for aggravating factors or decreased for mitigating factors. If imprisonment is appropriate, the sentencing authority must impose the sentence prescribed by law for that particular offense. Arizona, California, Colorado and New Mexico are among the states which have adopted presumptive laws.

SENTENCING GUIDELINES:

Guidelines are developed to consider both the offense and the individual characteristics of the offender. The trial court is not bound by the suggested guidelines; however, it is mandated to consider the guidelines. To assure that the guidelines will be adhered to, any deviation from them must be accompanied by a written statement. The defendant or the state is allowed to appeal any sentence imposed or stayed. Guidelines also designate who should and should not be incarcerated. Only Minnesota and Pennsylvania have laws to establish sentencing guidelines.

These categories are based on general characteristics. Some state laws reflect mixed categories.

Select Provisions

Many provisions such as those referring to habitual offenders or to the use of a weapon are included in determinate sentencing laws and are also found in state laws which still operate under indeterminate systems. These provisions are, however, intricate parts of the determinate statutes and are mentioned in the background analysis for this reason.

Recognizing that all circumstances are not alike, most states allow the court to consider aggravating and mitigating factors when choosing the appropriate sentence to impose. Examples of aggravating circumstances include:

1. The defendant inflicted or threatened bodily injury.
2. The defendant was the main perpetrator of the crime.
3. The crime involved several victims.
4. The defendant caused excessive property damage or loss.

Examples of mitigating factors include:

1. The defendant has no prior convictions.
2. The defendant committed the crime under duress.
3. The defendant was not the major perpetrator of the crime.
4. The defendant has made restitution to the victim.
5. The defendant lacked sound judgment.

Consideration of aggravating and mitigating circumstances allows the sentencing authority to make limited adjustments for individual cases within a system designed to prevent large discrepancies.

A few states also regard the use of a firearm or the infliction of bodily injury as an aggravating circumstance which, if proven to have occurred during the crime, increases the length of the sentence. However, most states treat this as a special provision, which still results in a longer sentence. Alaska, Arizona, California, Colorado, Illinois, Maine, New Mexico, North Carolina and Minnesota have special provisions for the use of a deadly weapon. Illinois and Tennessee have created a Class X category for certain felonies. In Illinois, use of certain weapons, designated as Category I, in the commission of any felony is treated as a Class X offense. Other dangerous weapons, designated Category II, are considered a Class Two felony or the present statutory class, whichever is greater. Tennessee has not created a special provision; however, certain Class X felonies involve the use of a deadly weapon.

It is common to find provisions that repeat or habitual offenders be treated more severely than first offenders in the laws of those 13 states. Most states allow the courts to consider prior convictions which have occurred separately within a limited number of years from the present offense. In Alaska, the court is permitted to go back seven years; in Colorado, it is 10 years. California treats prior violent felony convictions more severely than non-violent ones. Two prior Class X convictions in Illinois result in a mandatory life sentence, and certain other felony offenders with prior convictions are sentenced as Class X offenders. In New Mexico, additional lengths of imprisonment increase depending on the number of prior convictions. North Carolina provides that prior felony convictions involving a deadly weapon be treated more severely.

Only a few states establish a special procedure to review sentences imposed. Under certain circumstances, a three-judge panel is created in Alaska to review sentences. In California, sentences are reviewed by the parole authority. Both Pennsylvania and Minnesota permit the prosecution or the defendant to appeal a sentence.

Traditionally, parole boards not only decide who will or will not be paroled but determine the length of the parole. Under determinate laws, such parole responsibilities have been limited and in some cases, removed. In Maine, parole decision-making and supervision are entirely removed; prisoners are unconditionally released at the expiration of the sentence. Other states limit parole decision-making by requiring that all prisoners serve a minimum amount of time before being considered for parole (see Arizona and Alaska). In Illinois, a parole period (mandated supervised release) is designated when the sentence is imposed. The length of supervised release is defined by law.

To reduce the length of the total sentence imposed, many states allow inmates to earn credits for certain conduct. There are three types of credit: Good-time credits are awarded for good behavior while in custody; earned-credits are given for outstanding progress in work performance or participation in special programs; meritorious conduct credit is earned for outstanding behavior or additional work performed. In addition to points for meritorious conduct, credits are awarded based on the number of days served. For example, if good-time is awarded at a rate of one day for every two days of good behavior, a six-year sentence could be reduced to four years when all good-time credits are considered. Minnesota has taken advantage of this by requiring that this time reduction be served while the offender is on parole. Credits for meritorious conduct cannot exceed the limits established by law.

In 1976, California became the first state to enact a determinate sentencing law. Although studies are underway, more data need to be collected before the full effects of the California law will be identified. According to a publication entitled *Determinate Sentencing in California*, prepared by the Council of State Governments, certain trends have evolved since the adoption of the California law. First, more offenders are being sentenced to a prison as a result of a new law, although it should be noted that no determinate sentencing law has any effect on who does or does not go to prison. Second, there is less apparent sentencing disparity among similarly situated offenders; and third, larger prison populations will likely result in higher costs. Again, further study is required to monitor the full effects of this particular law and confirm preliminary findings.

Although similarities exist, each law described in this report takes a somewhat different approach and is unique. It must be assumed that after more research is completed, effects of laws which make sentencing more determinate will also vary.

The tables on the following pages summarize the provisions included in the determinate sentencing laws but do not address effects of the new laws. For further information on the kinds of laws described here or copies of any state law, contact the Criminal Justice Project, National Conference of State Legislatures in Denver, Colorado.

See Appendix for statutory citations.

A COMPARISON OF THE PROVISIONS  
OF STATE DETERMINATE SENTENCING LAWS

	ALASKA	ARIZONA
Sentencing Structure	A sentence range is established for Class A, B and C felonies -- murder and kidnapping. Each range includes a maximum sentence limit; a minimum term is established for murder and kidnapping. The court must impose a definite term within the sentence range for the felony class. Presumptive terms are established in each class for prior convictions and within Class A for the use of a firearm. Aggravating and mitigating factors are listed and may increase or decrease the presumptive terms within the limits allowed by law. If the sentencing court finds that the presumptive term is not appropriate or injustice will result in cases where aggravating and mitigating circumstances are not considered, the court must enter such findings in the record.	Non-capital offenses. Presumptive sentence established by law for each class of offense, felony and misdemeanor. First time conviction for a Class 2 or 3 felony may be increased up to 100 percent for aggravating circumstances or reduced by 25 percent for mitigating circumstances; first time convictions for Class 4, 5 or 6 felonies may be increased up to 25 percent or reduced by 50 percent. Factual findings and reasons for sentence alterations must be stated in the record by the trial judge.
Use of a Firearm	Use of a firearm or infliction of serious injury in the commission of a Class A offense results in a presumptive term of six years for a first offense other than for manslaughter. This compares to the ordinary range for a Class A felony of a definite term, selected by the judge not to exceed 20 years.	Use of a deadly weapon or dangerous instrument or the intentional infliction of serious injury in the commission of a felony results in a mandatory fixed sentence. Prior convictions of a similar nature result in a longer sentence. A person sentenced under this section is not eligible for any type of release until a minimum amount of time is served. Minimum time served and the actual sentence vary depending on the class of the offense. The sentence may be altered depending on aggravating and mitigating circumstances.
Habitual or Repeat Offenders	A presumptive term is established within the sentence range for Class A, B and C felonies for prior felony convictions that have occurred within seven years of the present offense. Different presumptive terms are applied to second and third felony convictions with each class, and vary depending on the felony class.	Previous felony convictions result in a mandatory sentence. Length of sentence and minimum time to be served before any type of release differ depending on the class of the present offense and the number of prior convictions.

	ALASKA	ARIZONA
Sentencing Authority	Trial Judge.	Trial Judge.
Sentence Review	Creates a three-judge panel in the superior court to review where the sentencing court finds that injustice will result because of failure to consider aggravating and mitigating circumstances or because of imposition of the presumptive term. Upon majority agreement, the panel may resentence the defendant or remand the case.	No specific provision.
Parole Decision-making	Every prisoner must serve at least 1/3 of the sentence imposed or the mandatory minimum where required by law before being released on parole. Discretion is then left to the parole board.	Limited discretion. Earliest parole eligibility occurs when half the sentence has been served, unless the law requires 2/3 of the sentence to be served before eligibility. Board can deny parole if it appears that the applicant will violate the law or is dangerous. Every person who has served one year is to be temporarily released 180 days prior to expiration of the actual sentence. Board has the power to grant absolute discharge.
Parole Supervision	No specific provision.	Department of Corrections retains control over parolee until the term of the sentence expires. Violations of parole result in a return to custody until the sentence expires.
Good time/ Earned time	One day is awarded for every three days of good behavior.	Earned credits are accrued for those prisoners who are granted class one eligibility status and are granted at a rate of one day for every two days served. However, if the sentence prohibits release until 2/3 of the sentence is served, earned credits are granted at a rate of one day for every three days served. Earned credits reduce the term of imprisonment but do not reduce the sentence for the purpose of eligibility.

	CALIFORNIA	COLORADO
Sentencing Structure	Applies to most felonies other than murder and kidnapping which carry life sentences. Most felonies carry a choice of three terms: low, middle and high. The judge must impose the middle term unless there are aggravating or mitigating circumstances. In addition to the base term, longer sentences termed "enhancements" are imposed for prior convictions, certain sex offenses, or if the crime was committed with a weapon or if great bodily harm occurred.	Establishes a presumptive range for each of the five classes of felonies. Class I felonies are unaffected by the new sentencing scheme and encompass only the crimes for which the punishment is life imprisonment or death. Absent extraordinary aggravating or mitigating circumstances, the maximum sentence for the commission of a Class 2 felony is twelve years, while the maximum sentence for a Class 5 felony is one year. The sentencing court is to sentence within the appropriate presumptive range for a fixed term. A sentence within the range must take into account: the nature and elements of the offense; the character and record of the offender; and mitigating and aggravating circumstances. If the court finds extraordinary mitigating or aggravating circumstances, it may impose a sentence which is lesser or greater than the presumptive range, but the sentence cannot be more than twice the maximum or less than one-half the minimum term authorized. When a court does impose a sentence in an extraordinary case, it must make written findings detailing the extraordinary circumstances justifying the variance from the presumptive range.
Use of a Firearm	Results in a one-year sentence enhancement if the person was <i>armed</i> with a firearm or a cohort in the crime was armed with a firearm. A two-year enhancement is applied if the person <i>uses</i> a firearm in the commission of the crime. This section does not apply if a firearm is an element of the offense.	Existing law is not affected. Existing law provides that a mandatory minimum within the presumptive range is to be imposed for the use of a deadly weapon in the commission of certain crimes.
Habitual or Repeat Offenders	Violent present offenses plus violent prior convictions committed within 10 years where a prison term was served results in a 3-year enhancement. Other prior convictions committed within five years where a prison term was served result in a one-year enhancement.	Existing habitual offender statute is not affected. Existing law provides that 2 prior convictions within 10 years of the present offense result in a term of imprisonment of not less than 25 years or more than 50 years for certain felonies. Three or more prior convictions result in a term of life imprisonment.

	CALIFORNIA	COLORADO
Sentencing Authority	Trial judge.	Trial judge.
Sentence Review	Sentence is reviewed by parole authority no later than one year after the sentence is imposed, and parole may recommend that the offender be re-sentenced if parole authority determines the sentence is disparate.	When the sentence imposed is lesser or greater than the presumptive range, the court of appeals automatically reviews the propriety of the sentence in a nonadversary proceeding. The court of appeals may affirm the sentence or remand the case for resentencing.
Parole Decision-making	Authority to waive parole supervision and to set conditions and length of parole up to maximum period provided by law.	General supervisory authority for parole period which is automatically added to the sentence. State Board of Parole also has responsibility for review and award of additional good time.
Parole Supervision	See above.	A one-year period of parole is included for each felony classification to be supervised by the division of adult services in the department of corrections. Conditions of parole continue to be established by the state board of parole.
Good time/ Earned time	Sentences may be reduced by 1/3 for participation in prison programs and if conduct is consistent with the rules of the institution.	Fifteen days a month for substantial conformance with institution rules and regulations. The good time is to vest quarterly. Earned time, not to exceed fifteen days for every six months of incarceration, may be deducted from the sentence for outstanding progress in the categories of work and training, group living, counseling and meeting established goals and programs.

	ILLINOIS	INDIANA
Sentencing Structure	Establishes different sentence ranges for murder, Class X felonies and for each of four felony classes. A sentence imposed must be determinate within the range specified for the particular offense. Class X felonies include aggravated kidnapping, rape, deviate sexual assault, heinous battery, armed robbery, aggravated arson and treason. The sentence range for Class X felonies is not less than six and not more than 30 years imprisonment. Aggravating and mitigating factors can be considered, and the court is to include the reasons for imposing a particular sentence in the record. If aggravating factors are found, a sentence may be imposed from a set of extended ranges established by law for different offenses. The extended range for a Class X offense is 30-60 years imprisonment.	Established fixed terms within each of four felony classes and for murder. Fixed terms can be increased for aggravating circumstances or decreased for mitigating circumstances within the limits allowed by law for each felony class.
Use of a Firearm	Use of certain dangerous weapons in the commission of any felony is a Class X offense.	No specific provision.
Habitual or Repeat Offenders	A person twice convicted of specified crimes: treason, murder, rape, deviate sexual assault, armed robbery, aggravated arson, or aggravated kidnapping for ransom, and is thereafter convicted of any one of these crimes committed after the two prior convictions, receives mandatory life sentence and is not eligible for parole. A person convicted of a Class 1 or Class 2 felony who has 2 prior Class 1 or Class 2 convictions is sentenced as a Class X offender. These sections are not retroactive prior to the effective date of the act.	For two prior unrelated felony convictions, an additional fixed term of 30 years is to be imposed. However, if 10 or more years have elapsed since discharge from the sentence for the last felony conviction, the court may subtract up to 25 years from the additional fixed term. If a reduction is authorized, the court may consider aggravating or mitigating circumstances to determine if a reduction should be granted and what the reduction should be (amended 1980).



	ILLINOIS	INDIANA
Sentencing Authority	Trial Court.	Trial Court.
Sentence Review	Upon appeal, the appellate court may modify a sentence imposed where appropriate.	No specific provision.
Parole Decision-making	Abolishes Parole and Pardon Board and creates the Prisoner Review Board. Retains power of parole only over persons sentenced to an indeterminate term before the new act. Establishes convictions for parole and mandatory release; reviews revocation or suspension of good conduct credits over 30 days in cases of prisoner misconduct.	Board has power to revoke parole, to reinstate parole, and to insure discharges from parole. Offender must serve the length of the fixed sentence less credit time before being released on parole.
Parole Supervision	Every sentence must include the mandatory supervised release term specified by law for each type of felony offense.	Supervision is limited to the amount of time before the fixed term expires, not to exceed one year.
Good time/Earned time	Except for life sentences; good time credit, which accrues on a monthly basis, is awarded one day for every one day served and is to be deducted from the sentence. The Director of the Department of Corrections may award up to 90 days additional credit for meritorious conduct. No prisoner can be penalized more than one year of credit for any one infraction.	Establishes three classes of credit time. All persons are initially assigned to Class I and may be reassigned to a lower class for institutional violations. Credit time accrues as follows: Class I, 1 day for every 1 day served; Class II, 1 day for every 2 days served; and Class III, no credit time.

	MAINE	NEW JERSEY
Sentencing Structure	Murder results in a minimum prison term of 25 years. Other crimes are divided into five classes and a maximum term is established for each class. Maximum terms increase according to the seriousness of the offense. The court is mandated to set a definite period of imprisonment not to exceed the maximum amount.	A sentence range is established for each of four degrees of crimes. The sentence imposed must be a fixed term within the appropriate range and the court is to state on record the reasons for imposing a particular sentence. For first and second degree crimes, the court may fix a minimum term within the limits of law during which the person is not eligible for parole. An extended sentence range for murder, first, second and third degree crimes is also established and may be imposed if certain circumstances exist. Again, the court may fix a minimum term within the limits of the law. Further, the law establishes a presumptive term for each of the four degrees of crimes to be imposed if a sentence of imprisonment is proper. The sentence can be increased for aggravating factors. If mitigating factors outweigh aggravating factors in first or second degree crimes, the court may sentence the defendant to a term that is one degree lower. Such sentence is not final for 10 days in order to permit appeal by the prosecution.
Use of a Firearm	If the State proves that a Class B, C, D or E crime was committed with the use of a dangerous weapon, the sentencing class is one class higher. Minimum terms of imprisonment are established for Class A, B, C or D crimes committed with the use of a firearm. Sentences imposed under this section cannot be suspended.	No specific provision.
Habitual or Repeat Offenders	No specific provision.	Two previous felony convictions within 10 years of the present offense are the criteria for imposing a sentence within the extended range.
Sentencing Authority	Trial judge.	Trial court.

	MAINE	NEW JERSEY
Sentence Review	No specific provision.	No specific provision.
Parole Decision-making	Removed. Prisoners are to be unconditionally released at the expiration of the term, less good time.	Must compute a parole eligibility date within 90 days after the sentence begins. Most inmates become eligible for parole after serving nine months of the sentence; exceptions are made for special offenders. Power to increase eligibility date for infractions and decrease eligibility date for exceptional progress. Inmates to be released at that date for exceptional progress. Inmates to be released at that date unless the inmate is likely to commit a crime. Inmates are never eligible for parole before serving the minimum term, when imposed.
Parole Supervision	Removed.	For most inmates, parole supervision amounts to the balance of the maximum term, less good time, and/or earned time.
Good time/ Earned time	Prisoners sentenced to a term over six months are awarded good time credits at a rate of 10 days for every month served. Sentences six months or less are awarded three days good time for every month served. An additional two days a month may be awarded for work or other duties.	For first offenders, good time may be awarded at a varying rate which starts at one-fifth of the original sentence for a one-year sentence, but which increases for longer sentences. Earned time never exceeds one day for each five days of productive occupation.

	NEW MEXICO	NORTH CAROLINA
Sentencing Structure	Non-capital offenses. Presumptive-fixed sentence established by law for each class of offense. Alteration for aggravating and mitigating circumstances cannot exceed 1/3 of the basic sentence. Firearm or prior convictions cannot be considered as an aggravating circumstance. Court may impose a fine in addition to the basic sentence for certain classes of offenses.	Non-capital offenses (Class A and B felonies are excluded). Presumptive terms established by law for eight classes of felonies. Within each class, different terms are established for offenders with prior felony convictions. Maximum terms of imprisonment to be served in a jail or the state prison and fines are established for all 10 classes of felonies. The judge must impose the presumptive term unless aggravating or mitigating circumstances exist. If the judge deviates from the presumptive term, findings of fact regarding the alteration must be recorded.
Use of a Firearm	Considered as a separate issue in sentencing. Use of a firearm in the commission of a crime can result in an increase to the basic sentence which is served first and cannot be suspended or deferred.	Special provision for prior felony convictions with the use of a deadly weapon within seven years of the present offense. A sentence of at least 14 years is to be imposed and is to be served at the state prison. The offender must serve at least seven years excluding gained time. A person sentenced under this section cannot be sentenced as a youthful offender and is not eligible for probation. Sentence to be served consecutively and to begin after the expiration of the sentence imposed for the present offense.
Habitual or Repeat Offenders	Considered as a separate issue. One prior felony conviction will result in an additional four years; and three or more priors result in eight additional years imprisonment. Sentences under this provision cannot be suspended or deferred.	
Sentencing Authority	Trial judge.	Trial judge.
Sentence Review	No special provision.	If a defendant has been found guilty and the sentence exceeds the presumptive term, the defendant is entitled to appeal as a "matter of right: to determine whether the sentence is supported by the evidence" introduced.

	NEW MEXICO	NORTH CAROLINA
Parole Decision-making	Removed.	(Other than Class A or B felonies and youthful offenders.) Parole commission must parole each prisoner serving a term of 18 months or more 90 days before the expiration of the term less credit time for time already served, good time and gained time. The prisoner can refuse to accept parole and remain in prison or jail until the expiration of the term at which time he will be unconditionally discharged.
Parole Supervision	Period set as part of the sentence.	90 day period. Prisoner can be returned to custody for violations of parole to serve the remaining 90 days but will continue to receive good time and may be awarded gained time. At the expiration of the term, the prisoner is unconditionally discharged.
Good time/ Earned time	Credits awarded at 12 days per month. Additional credits may be awarded for outstanding meritorious behavior, not to exceed one year.	Good time is accrued at a rate of one day for every day served in custody and can be forfeited for certain misconduct. Gained time credit is awarded for work performance and the amount varies depending on the number of daily hours, the type of work performed and the setting. Gained time credit is not subject to forfeiture for misconduct. Additional gained time may be granted by the Secretary of Corrections for meritorious conduct or emergency work performed, not to exceed the limits established by law.

	MINNESOTA	PENNSYLVANIA
Sentencing Structure	Effective May 1, 1980. Establishes a sentencing commission to develop <u>advisory</u> sentencing guidelines for use by the district court. Guidelines to establish: (1) circumstances where imprisonment is proper, and (2) a presumptive, fixed sentence scheme. The guidelines may provide a 15 percent increase or decrease in the presumptive sentence. If the court deviates from the presumptive sentence, the judge is required to make written findings of fact regarding the alteration.	Establishes the Pennsylvania Commission on Sentencing to develop <u>advisory</u> guidelines to be used by the court to determine the appropriate sentence for felonies and misdemeanors. The guidelines must: (1) specify a range of sentences for different degrees of crimes; (2) specify a range of sentences of increased severity for repeat offenders or for crimes committed with the use of a deadly weapon; and (3) prescribe variations from the range of sentences for aggravating and mitigating circumstances. The judge must indicate in a written statement the reasons for any sentence imposed. The guidelines become effective 90 days after they are submitted to the legislature unless, by concurrent resolution, the legislature rejects them in their entirety.
Use of a Firearm	Present law not affected which provides that minimum terms established for certain crimes in which a firearm was used in the commission of the offense. (See MN Stats. 609.11)	(See above; also included in the interim guidelines described below.)
Habitual or Repeat Offenders	Prior felony convictions for certain offenses occurring within 15 years of the present offense will result in a prison term of not less than three years or more than the maximum sentence provided by law for the present offense.	A minimum term of four years imprisonment is established as an <u>interim</u> guideline to be considered by the court for some repeat offenders. The guideline applies to certain crimes, particularly crimes against the person, and is to be used when the offender has prior convictions for similar crimes.
Sentencing Authority	Trial judge. Separate sentencing hearing must be held upon request of the defendant or the State. Court to issue written findings of fact and conclusions of law and enter an appropriate order.	Trial judge.

	MINNESOTA	PENNSYLVANIA
Sentence Review	Appeal to the Supreme Court for any sentence imposed or stayed may be brought by the defendant or the State. Supreme Court may review to determine whether the sentence is inconsistent with the law, unreasonable, inappropriate, excessive, disparate or not warranted based on the findings of fact.	A petition for appeal may be filed by the district attorney or the defendant. The appellate court is to remand the sentence to the trial court when: (1) the sentence is within the guidelines but the guidelines were applied erroneously; or (2) the sentence is outside the guidelines and the facts do not justify the sentence.
Parole Decision-making	Corrections board to promulgate rules for the placement and supervision of inmates on parole. Power to revoke parole and place the offender back in the institution for an amount of time not to exceed the time remaining in the sentence.	No specific provision. Existing parole law is not affected.
Parole Supervision	Every prisoner is to serve a period to the amount of good time accrued and not to exceed the amount of time remaining in the sentence. A person serving a life sentence is not eligible for release until he has served a minimum of 17 years.	No specific provision in the new law.
Good time/ Earned time	One day for every two days served. Good time reductions determine the period of supervised release to be served by the inmate. Good time earned prior to disciplinary violations cannot be forfeited, but the inmate may be required to serve an additional portion of his term after the violation without earning good time. Additional time served cannot result in a loss of more than 90 days good time. Mandatory life sentence excluded.	No specific provision in the new law.

NOTE: Missouri has recently revised its criminal code, and according to §557.038 the court will decide the extent and duration of the sentence and impose a sentence of a term of years within the prescribed limits of each felony class.

	TENNESSEE
Sentencing Structure	Classified eleven serious felonies as "Class X" offenses. These include murder, aggravated kidnapping, certain sex crimes, aggravated robbery and certain drug offenses. Minimum sentences, or in some cases a range of sentences, are established for each offense. Only "Class X" sentences must be determinate within the limits prescribed by law for each offense and are not subject to credits for sentence reduction. (Class X offenses also require a mandatory sentence. Other offenses are in a non-mandatory indeterminate structure.)
Use of a Firearm	No specific provision except that certain offenses are placed within the Class X category by virtue of the use of a deadly weapon in their commission.
Habitual or Repeat Offenders	No general provision, however, habitual drug offenders are defined and placed within the Class X category.
Sentencing Authority	Present law not affected. Jury is to impose sentence.
Sentence Review	No special provision.
Parole Decision-making	Every person sentenced under the Class X scheme must serve 40 percent of the determinate sentence imposed before becoming eligible for release classification status. Discretion as to release is then determined by the administrative authority responsible for pardon, parole and release recommendation.
Parole Supervision	A minimum of three years supervised release is required of all Class X offenders.
Good time/ Earned time	No specific provision but record of the offender is taken into consideration in determining release classification status. Failure to conform behavior to acceptable standards may result in delaying eligibility for release classification status.

APPENDIX

ALASKA	State Laws of Alaska 12.55.125 et seq (1978 cumulative supplement)
ARIZONA	Arizona Revised Statutes 13-601 et seq (1979 cumulative supplement)
CALIFORNIA	California Penal Code §1170 et seq (1979 cumulative supplement)
COLORADO	Colorado Revised Statutes 16-11-309 (1979 cumulative supplement)
ILLINOIS	Illinois Revised Statutes ch. 38, §1005-3-1 et seq
INDIANA	Indiana Code 35-50-1 et seq (1979 cumulative supplement)
MAINE	Maine Revised Statutes Annotated 17-A §1251 et seq (1979 cumulative supplement)
MINNESOTA	Minnesota Statutes §609 et seq (1979 cumulative supplement)
NEW JERSEY	New Jersey Statutes Annotated 2:C 43-6 et seq (Special Pamphlet)
NEW MEXICO	New Mexico Statutes Annotated 31-18-15 et seq (1979 cumulative supplement)
NORTH CAROLINA	North Carolina General Statutes 14-1-1 et seq (1979 cumulative supplement)
PENNSYLVANIA	Pennsylvania Consolidated Statutes Annotated 18§106 et seq (1979 cumulative supplement)
TENNESSEE	Tennessee Code Annotated 38-5402 et seq (1979 cumulative supplement)

**END**