



OHIO

CRIMINAL SENTENCING COMMISSION

Chief Justice Maureen O'Connor, Chair • Sara Andrews, Director

A National PERSPECTIVE:
**50 STATE LOW-LEVEL FELONY
SENTENCING SUMMARY**



Acknowledgements

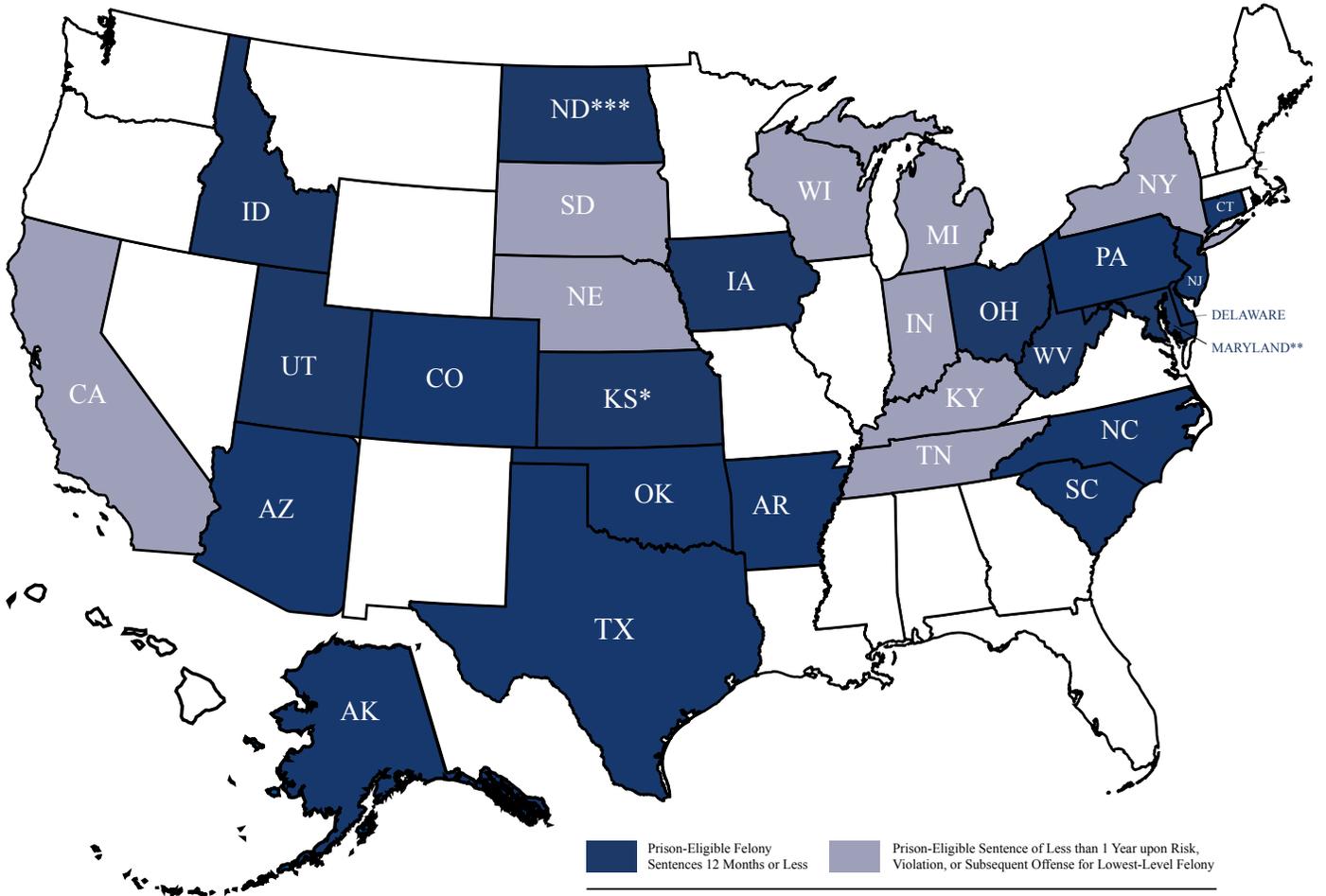
This document was prepared and is published by the Ohio Criminal Sentencing Commission and the Ohio Judicial Conference.

Additionally, we thank the staff of the Supreme Court of Ohio Law Library for their assistance and support in gathering this information.



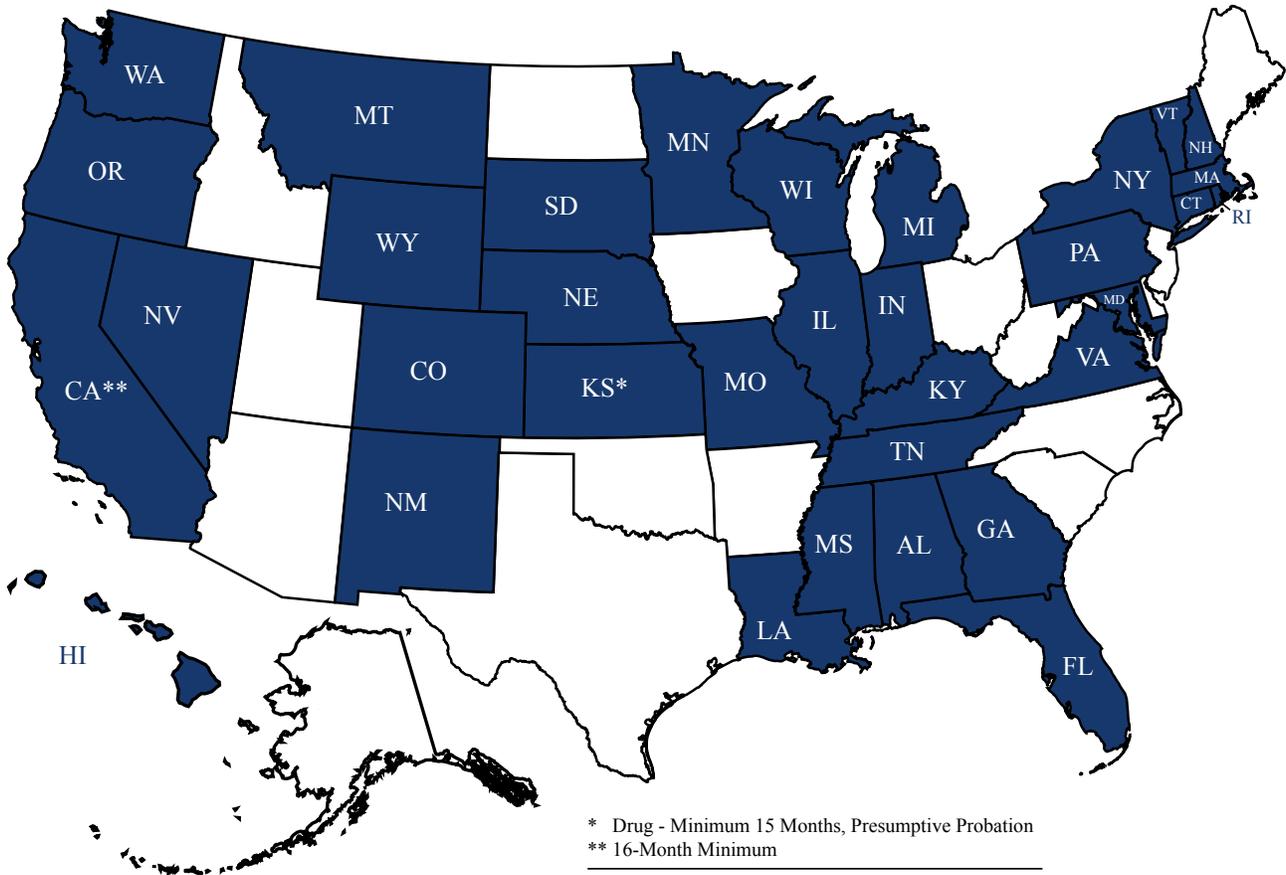


States with Sentences of 12 Months or Less that Are Prison Eligible (26)



* Non-Drug, Presumptive Probation
** Baltimore Only
*** Not More than 1 Year, Becomes Misdemeanor upon Release

States with Prison-Eligible Sentence of 1 Year or More for the Lowest-Level Felony (33)



Maine Does Not Distinguish between Misdemeanors and Felonies - See p. 13

States with Active Criminal Justice or Sentencing Commissions (21 + DC)

Alabama, Alaska, Arkansas, Connecticut, Delaware, District of Columbia, Illinois, Kansas, Louisiana, Maryland, Massachusetts, Minnesota, Missouri, New Mexico, New York, North Carolina, Ohio, Oregon, Pennsylvania, Utah, Virginia & Washington

SUPPLEMENTAL NOTES & SPECIFIC STATE INFORMATION USED TO PRODUCE THIS DOCUMENT

A felony designation (not the location of imprisonment, rehabilitation, or sanction) is what impacts (1) the determination if someone is a repeat felony offender; (2) that person's ability to vote, carry firearms, obtain professional licenses, and obtain employment, and (3) the expectation of the public, and particularly the victim, of what type of penalty that person will serve.

ALABAMA:

Felony Defined: An offense for which a sentence to a term of imprisonment in excess of one year is authorized by this title. Code of Ala. § 13A-1-2

Lowest Level Felony: Class D Code of Ala. § 13A-5-3 (three or more repeat Class D felonies must be punished as a Class C felony – only two repeat offenses lead to the Class D penalty enhancement if the prior offenses were Class A or Class B; Code of Ala. § 13A-5-9)

Sentence: Not more than 5 years and not less than 1 year and 1 day Code of Ala. § 13A-5-6

Where Served: In all cases in which the period of imprisonment in the penitentiary or hard labor for the county is more than 3 years, the judge shall sentence the party to imprisonment in the penitentiary. In all cases of conviction for felonies in which imprisonment or hard labor is for more than 12 months and not more than 3 years, the judge may sentence the party to imprisonment in the penitentiary, confinement in the county jail, or to hard labor for the county, at his or her discretion. In all cases in which the imprisonment or sentence to hard labor is 12 months or less, the party shall be sentenced to imprisonment in the county jail or to hard labor for the county. No misdemeanor prisoner may be sentenced to the penitentiary.

Notes: Unless a defendant is sentenced to probation, drug court, or a pretrial diversion program, when a defendant is convicted of a Class D felony offense and receives a sentence of not more than 15 years, the judge presiding over the case shall order that the convicted defendant be confined in a prison, jail-type institution, treatment institution, or a consenting community corrections program for a period not exceeding two years in cases where the imposed sentence is not more than 15 years, and that the execution of the remainder of the sentence be suspended and that the defendant be placed on probation for a period not exceeding three years. In all cases when it is shown that a defendant has been previously convicted of any three or more felonies or has been previously convicted of any two or more felonies that are Class A or Class B felonies, and after such convictions has committed a Class D felony, upon conviction, he or she must be punished for a Class C felony. This subsection shall not be construed to impose the responsibility for offenders sentenced to a Department of Corrections facility upon a local confinement facility not operated by the Department of Corrections. If no community corrections program exists within a county or jurisdiction and no alternative program options are available, a defendant convicted of an offense that constitutes a Class D felony may be sentenced to high-intensity probation under the supervision of the Board of Pardons and Paroles in lieu of community corrections. Code of Ala. § 15-18-8 If a defendant is participating in a court supervised evidence-based treatment program, a court ordered faith-based program, or any other court ordered

rehabilitative program and is subsequently terminated from that program, the court may then order that the defendant be confined in either a prison, jail-type institution, treatment institution, or a consenting community corrections program. Code of Ala. § 13A-5-8.1

ALASKA:

Felony Defined: “Felony” means a crime for which a sentence of imprisonment for a term of more than one year is authorized Alaska Stat. § 11.81.900

Lowest Level Felony: Class C (which characteristically involve conduct serious enough to deserve felony classification but not serious enough to be classified as A or B felonies) Alaska Stat. § 11.81.250

Sentence: Up to 5 years; presumptive ranges are: a first-time offender can get probation with a suspended sentence of 0 – 18 months, depending on the crime; a second-time offender, 1 – 3 years; a third time offender, 3 – 5 years. Alaska Stat. § 12.55.125

Where Served: The court, in exercising sentencing discretion as provided in this chapter, shall impose a sentence involving imprisonment when (1) the defendant deserves to be imprisoned, considering the seriousness of the present offense and the defendant’s prior criminal history, and imprisonment is equitable considering sentences imposed for other offenses and other defendants under similar circumstances; (2) imprisonment is necessary to protect the public from further harm by the defendant; or (3) sentences of lesser severity have been repeatedly imposed for substantially similar offenses in the past and have proven ineffective in deterring the defendant from further criminal conduct. Alaska Stat. § 12.55.015

Notes: Alaska is one of 6 states that directly operates both its prisons and local jails.

ARIZONA:

Felony Defined: “Felony” means an offense for which a sentence to a term of imprisonment in the custody of the state department of corrections is authorized by any law of this state. A.R.S. § 13-105

Lowest Level Felony: Class 6 A.R.S. § 13-702

Sentence: 1 year (presumptive) for a first-time offender; minimum is .5 years and maximum is 1.5 years; minimum mitigated is .33 years and maximum aggravated is 2 years. A.R.S. § 13-702

Where Served: A sentence of imprisonment for a felony shall be a definite term of years and the person sentenced, unless otherwise provided by law, shall be committed to the custody of the state department of corrections. If a person is convicted of any class 6 felony not involving a dangerous offense and if the court, having regard to the nature and circumstances of the crime and to the history and character of the defendant, is of the opinion that it would be unduly harsh to sentence the defendant for a felony, the court may enter judgment of conviction for a class 1 misdemeanor or may place the defendant on probation and refrain from designating the offense as a felony or misdemeanor until the probation is terminated. This subsection does not apply to any person who stands convicted of a class 6 felony and who has previously been convicted of two or more felonies. A.R.S. § 13-604

Notes: For a Category 2 repeat offender (second offense), a Class 6 felony sentence is 1.75 year presumptive, 1 year minimum and 2.25 year maximum, .75 year mitigated minimum and 2.75 years aggravated maximum. For a Category 3 repeat offender (third offense), a Class 6 felony is 3.75 years presumptive, 3 years minimum and 4.5 years maximum, 2.25 years mitigated minimum and 5.75 years aggravated maximum. A.R.S. § 13-703

ARKANSAS:

Felony Defined: An offense is a felony if the offense is designated a felony by: (1) The Arkansas Criminal Code; or (2) A statute not a part of the Arkansas Criminal Code. A.C.A. § 5-1-106

Lowest Level Felony: Class D A.C.A. § 5-4-401

Sentence: Shall not exceed up to 6 years A.C.A. § 5-4-401

Where Served: Except as provided in §§ 5-4-304 and 16-93-708, a defendant convicted of a felony and sentenced to imprisonment shall be committed to the custody of the Department of Correction for the term of his or her sentence or until released in accordance with law. § 5-4-304 grants the court the discretion to suspend a felony imprisonment sentence and substitute with a variety of other sanctions. § 16-93-708 refers to electronic monitoring for a felon who is moved to home detention because he is terminally ill, physically incapacitated, or otherwise eligible for hospice. A.C.A. § 5-4-402

Notes: A felony prison sentence cannot be suspended and probation granted if the offender has two past felony convictions.

CALIFORNIA:

Felony Defined: A felony is a crime that is punishable with death, by imprisonment in the state prison, or notwithstanding any other provision of law, by imprisonment in a county jail under the provisions of subdivision (h) of Section 1170. Every other crime or public offense is a misdemeanor except those offenses that are classified as infractions. Cal Pen Code § 17

Lowest Level Felony: Recently realigned; “wobblers” are offenses that can be charged either as felonies or as misdemeanors

Sentence: Except in cases where a different punishment is prescribed by any law of this state, every offense declared to be a felony is punishable by imprisonment for 16 months, or two or three years. Cal Pen Code § 18

Where Served: In the state prison unless the offense is punishable pursuant to subdivision (h) of Section 1170, which may be punishable by imprisonment in the county jail not exceeding one year or by a fine, or by both. There are felonies specifically excluded from county jail and felonies (about 70) that specify punishment in a state prison and felonies without a designated housing. Prison is the default sentence for all felonies. Cal Penal Code § 1170

Notes: If an enhancement (specification) specifies punishment in a state prison, the entire term must be served in a state prison. Crimes usually punished by commitment in county jail may be sent to prison if (1) the defendant has a prior or current serious felony conviction, a violent felony conviction, or an out-of-state felony conviction that would be a serious or violent felony under California law (this does not specifically include juvenile “strikes,” but may if the “strike” is part of the conviction at sentencing; (2) whenever the defendant is required to register as a sex offender, either for a past or current offense; and (3) whenever the defendant has a (current or prior) conviction for aggravated theft. The Community Based Punishment Act allows for counties to opt-in to developing community-based corrections. Cal Pen Code § 8050

COLORADO:

Felony Defined:

Lowest Level Felony: Class 6 (drug offenses have an separate classification, with Level 4 being the lowest) C.R.S. 18-1.3-401

Sentence: 1 year – 18 months C.R.S. 18-1.3-401

Where Served: Prison is presumptive. Certain prison sentences can be vacated and treated as misdemeanors with community-based sanctions. C.R.S. 18-1.3-401

Notes: The intent of the general assembly in enacting Senate Bill 13-250 was to allow courts, for offenses committed on and after October 1, 2013, to vacate certain level 4 drug felony convictions and enter misdemeanor convictions if the offender completes community-based sentencing. This applies to 4 specific offenses: (1) possession of a controlled substance, if less than 2 grams or 4 grams, depending on the drug; (2) level 4 drug felony for distribution; (3) possession of more than 12 oz. of marijuana or 3 oz. of marijuana concentrate; (4) fraud and deceit. An offender is not eligible for this program if he has a prior felony conviction for a crime of violence (in Colorado, any other state, or federally) or a prior felony conviction with a mandatory penalty (in Colorado, any other state, or federally). C.R.S. 18-1.3-103.5

CONNECTICUT:

Felony Defined: An offense for which a person may be sentenced to a term of imprisonment in excess of one year is a felony. Conn. Gen. Stat. § 53a-25

Lowest Level Felony: Class E; Conn. Gen. Stat. § 53a-35a

Sentence: Not more than 3 years; Conn. Gen. Stat. § 53a-35a

Where Served: At any time during the period of a definite sentence of three years or less, the sentencing court or judge may, after hearing and for good cause shown, reduce the sentence, order the defendant discharged, or order the defendant discharged on probation or conditional discharge for a period not to exceed that to which the defendant could have been originally sentenced. Conn. Gen. Stat. § 53a-39

Notes: The court may sentence a person to a period of probation upon conviction of any crime, other than a class A felony, if it is of the opinion that: (1) Present or extended institutional confinement of the defendant is not necessary for the protection of the public; (2) the defendant is in need of guidance, training or assistance which, in the defendant's case, can be effectively administered through probation supervision; and (3) such disposition is not inconsistent with the ends of justice. At any time during the period of probation or conditional discharge, a violation of any of the conditions of probation or conditional discharge, may result in the return of the defendant to the custody of the court or to any suitable detention facility designated by the court. The same is true whenever a probation officer has probable cause to believe that a person has violated a condition of such person's probation.

DELAWARE:

Felony Defined:

Lowest Level Felony: Class G 11 Del. C. § 4205

Sentence: Up to 2 years to be served at Level V 11 Del. C. § 4205 (no minimum)

Where Served: In all sentences for less than 1 year the court may order that more than 5 days be served in Level V custodial setting before the Department may place the offender in Level IV custody. 11 Del. C. § 4205 For first-time offenders with a term of at least 9 months and less than 18 months remaining to serve, a court can grant a petition to "modify and divert" to a boot camp diversion program run by the state correctional department 11 Del. C. § 6712

Notes: Where no minimum sentence is required, the court may suspend part of the sentence for probation or any other punishment. 11 Del. C. § 4205; If the violation is established, the court may continue or revoke the probation or suspension of sentence, and may require the probation violator to serve the sentence imposed, or any lesser sentence, and, if imposition of sentence was suspended, may impose any sentence which might originally have been imposed; 11 Del. C. § 4334 Level V refers to 24-hour incarceration.

FLORIDA:

Felony Defined: The term "felony" shall mean any criminal offense that is punishable under the laws of this state, or that would be punishable if committed in this state, by death or imprisonment in a state penitentiary. "State penitentiary" shall include state correctional facilities. A person shall be imprisoned in the state penitentiary for each sentence which, except an extended term, exceeds 1 year. Fla. Stat. § 775.08

Lowest Level Felony: Felony of the Third Degree

Sentence: For a felony of the third degree, by a term of imprisonment not exceeding 5 years.

Where Served: If a defendant is sentenced for an offense which is a third degree felony but not a forcible felony, and excluding any third degree felony violation, and if the total sentence points are 22 points or fewer (Florida uses a scoresheet or "offense severity ranking chart," Fla. Stat.

§ 921.0022), the court must sentence the offender to a non-state prison sanction. However, if the court makes written findings that a non-state prison sanction could present a danger to the public, the court may sentence the offender to a state correctional facility pursuant to this section.

Notes: Florida recognizes Violent Career Criminals, Habitual Felony Offenders, Habitual Violent Felony Offenders, and Three-Time Violent Felony Offenders.

When the population of the state correctional system exceeds 100 percent of its total capacity and remains in excess of 100 percent of total capacity for 21 days, the Governor may use his or her emergency powers to reduce the population of the state correctional system as follows: The Governor shall inform any federal jurisdiction which has a concurrent or consecutive sentence or any active detainer placed on any prisoner in the state correctional system of his or her intention to transfer custody to that jurisdiction within 30 days. No prisoner shall be so transferred who is convicted of a capital felony in this state nor shall any transfer take place to any county or municipal jurisdiction within the state. Fla. Stat. § 944.0231

GEORGIA:

Felony Defined: “Felony” means a crime punishable by death, by imprisonment for life, or by imprisonment for more than 12 months. O.C.G.A. § 16-1-3

Lowest Level Felony: Not broken down by class

Sentence: 1 year

Where Served: Prison; misdemeanors with sentences of not more than 12 months can be served at a state probation detention center O.C.G.A. § 17-10-3

Notes: Any part of a sentence of probation revoked for a violation other than a subsequent commission of any felony, a violation of a special condition, or a misdemeanor offense involving physical violence resulting in bodily injury to an innocent victim which in the opinion of the trial court constitutes a danger to the community or a serious infraction occurring while the defendant is assigned to an alternative probation confinement facility shall be served in a probation detention center, probation boot camp, weekend lock up, or confinement in a local jail or detention facility, or other community correctional alternatives available to the court or provided by the Department of Corrections. The judge imposing the sentence is granted power and authority to suspend all or any part of the sentence, including service of a probated sentence in the sentencing options system and including the authority to revoke the suspension or probation when the defendant has violated any of the rules and regulations prescribed by the court, even before the probationary period has begun. O.C.G.A. § 17-10-1

HAWAII:

Felony Defined: A crime is a felony if it is so designated in this Code or if persons convicted thereof may be sentenced to imprisonment for a term which is in excess of one year. HRS § 701-107

Lowest Level Felony: Class C Felony HRS § 706-610

Sentence: 5 years (can be mandatory for some crimes and for repeat offenses) or less, but not less than one year HRS § 706-660

Where Served: When a person is sentenced to imprisonment, the court shall commit the person to the custody of the department of public safety for the term of the person's sentence and until released in accordance with law. The director of public safety shall determine the proper program of redirection and any place of confinement of the committed person. HRS § 706-672

IDAHO:

Felony Defined: A felony is a crime which is punishable with death or imprisonment in the state prison. Idaho Code § 18-111

Lowest Level Felony: No breakdown by class

Sentence: Except in cases where a different punishment is prescribed by this code, every offense declared to be a felony is punishable by imprisonment not exceeding five (5) years, or by fine not exceeding fifty thousand dollars (\$ 50,000), or by both such fine and imprisonment. Idaho Code § 18-112

Where Served: Except in cases where a different punishment is prescribed by this code, every offense declared to be a felony is punishable by imprisonment in the state prison. Idaho Code § 18-112

Notes: When a crime punishable by imprisonment in the state prison is also punishable by a fine or imprisonment in a county jail, it shall be deemed a misdemeanor for all purposes after a judgment imposing a punishment other than imprisonment in the state prison. Idaho Code § 18-111

ILLINOIS:

Felony Defined: A felony is a crime which is punishable with death or imprisonment in the state prison. 720 ILCS 5/2-7

Lowest Level Felony: Class 4 730 ILCS 5/5-4.5-10

Sentence: 1 - 3 years 730 ILCS 5/5-4.5-45 (extended term [aggravating circumstances] is 3 - 6 years, 730 ILCS 5/5-4.5-40)

Where Served: Prison; in imposing a sentence of imprisonment or periodic imprisonment for a Class 4 felony for which a sentence of probation or conditional discharge is an available sentence, if the defendant has no prior sentence of probation or conditional discharge and no prior conviction for a violent crime, the defendant shall not be sentenced to imprisonment before review and consideration of a pre-sentence report and determination and explanation of why the particular evidence, information, factor in aggravation, factual finding, or other reasons support the sentencing determination. 730 ILCS 5/5-4-1

INDIANA:

Felony Defined: “Felony conviction” means a conviction, in any jurisdiction at any time, with respect to which the convicted person might have been imprisoned form more than one year.

Lowest Level Felony: Level 6

Sentence: 6 months – 2.5 years (Advisory sentence of 1 year)

Where Served: Subject to certain exceptions, must be committed to the county jail, placed on probation, or placed in community corrections for assignment to an appropriate community corrections program. Commitment may be to the Department of Correction if probation/parole is being revoked for new offense or the person is convicted of a second Level 6 felony that is enhanced.

As used in this chapter, “felony conviction” means a conviction, in any jurisdiction at any time, with respect to which the convicted person might have been imprisoned for more than one (1) year.

As used in this chapter, “minimum sentence” means:(1) for murder, forty-five (45) years;(2) for a Class A felony, for a crime committed before July 1, 2014, twenty (20) years;(3) for a Class B felony, for a crime committed before July 1, 2014, six (6) years;(4) for a Class C felony, for a crime committed before July 1, 2014, two (2) years;(5) for a Class D felony, for a crime committed before July 1, 2014, one-half (½) year;(6) for a Level 1 felony, for a crime committed after June 30, 2014, twenty (20) years;(7) for a Level 2 felony, for a crime committed after June 30, 2014, ten (10) years;(8) for a Level 3 felony, for a crime committed after June 30, 2014, three (3) years;(9) for a Level 4 felony, for a crime committed after June 30, 2014, two (2) years;(10) for a Level 5 felony, for a crime committed after June 30, 2014, one (1) year; and(11) for a Level 6 felony, for a crime committed after June 30, 2014, one-half (½) year.

Burns Ind. Code Ann. § 35-50-2-1

(b) A person who commits a Level 6 felony (for a crime committed after June 30, 2014) shall be imprisoned for a fixed term of between six (6) months and two and one-half (2 1/2) years, with the advisory sentence being one (1) year. In addition, the person may be fined not more than ten thousand dollars (\$10,000).(c) Notwithstanding subsections (a) and (b), if a person has committed a Class D felony (for a crime committed before July 1, 2014) or a Level 6 felony (for a crime committed after June 30, 2014), the court may enter judgment of conviction of a Class A misdemeanor and sentence accordingly. However, the court shall enter a judgment of conviction of a Class D felony (for a crime committed before July 1, 2014) or a Level 6 felony (for a crime committed after June 30, 2014) if:(1) the court finds that: (A) the person has committed a prior, unrelated felony for which judgment was entered as a conviction of a Class A misdemeanor; and(B) the prior felony was committed less than three (3) years before the second felony was committed;

Burns Ind. Code Ann. § 35-50-2-7

(d) After December 31, 2015, a court may not commit a person convicted of a Level 6 felony to the department of correction unless:(1) the commitment is due to the revocation of the person’s sentence for violating probation, parole, or community corrections and the revocation of the person’s sentence is due to a new criminal offense; or (2) the person: (A) is convicted of a Level 6 felony and the sentence for that felony is ordered to be served consecutively to the sentence for another felony; (B) is convicted of a Level

6 felony that is enhanced by an additional fixed term under IC 35-50-2-8 through IC 35-50-2-16; or(C) has received an enhanced sentence under IC 9-30-15.5-2;and the person’s earliest possible release date is more than three hundred sixty-five (365) days after the date of sentencing.A person who may not be committed to the department of correction may be placed on probation, committed to the county jail, or placed in community corrections for assignment to an appropriate community corrections program.

Burns Ind. Code Ann. § 35-38-3-3

(d) A person convicted of a felony offense is a habitual offender if the state proves beyond a reasonable doubt that:(1) the person has been convicted of three (3) prior unrelated felonies; and(2) if the person is alleged to have committed a prior unrelated: (A) Level 5 felony; (B) Level 6 felony; (C) Class C felony; or (D) Class D felony; not more than ten (10) years have elapsed between the time the person was released from imprisonment, probation, or parole (whichever is latest) for at least one (1) of the three (3) prior unrelated felonies and the time the person committed the current offense.

Burns Ind. Code Ann. § 35-50-2-8

IOWA:

Felony Defined: A public offense is a felony of a particular class when the statute defining the crime declares it to be a felony. Felonies are class “A” felonies, class “B” felonies, class “C” felonies, and class “D” felonies. Where the statute defining the offense declares it to be a felony but does not state what class of felony it is or provide for a specific penalty, that felony shall be a class “D” felony. Iowa Code § 701.7

Lowest Level Felony: Class D Iowa Code § 701.7

Sentence: Confinement for no more than five years and a fine of at least \$750 but not more than \$7,500 Iowa Code § 902.9

Where Served: The judge has broad discretion about where and how a sentence is served. Upon a conviction, a judge may assign a person to a judicial district department of correctional services. A judicial district department of correctional services provides community-based correctional programs for persons who have been placed on probation or parole. Iowa Code § 907.3

Notes: When a judgment of conviction of a felony other than a class “A” felony is entered against a person, the court, in imposing a sentence of confinement, shall commit the person into the custody of the director of the Iowa department of corrections for an indeterminate term, with a statutory maximum length and minimum length, if provided. However, if the court suspends a person’s sentence, the court shall order the offender to serve time in the county jail. Iowa Code § 902.3

KANSAS:

Felony Defined: “felony” means any offense under state or federal law that is punishable by death or imprisonment for a term exceeding one year. K.S.A. § 8-2,128

Lowest Level Felony: Kansas has two grids for felony and misdemeanor penalties -- one for drug crimes and one for non-drug crimes. For non-drug crimes, G-10 is the lowest level felony. K.S.A. § 21-6804 and K.S.A. § 21-6805

Sentence: Non-drug, 1 or no prior, non-person felony (G-10) is 5, 6, or 7 months. Drug, 1 or no prior, non-person felony (G-5) is 15, 16, or 17 months. K.S.A. § 21-6804 and K.S.A. § 21-6805

Where Served: Presumptive probation (both drug and non-drug felonies). Kansas lists mitigating and aggravating circumstances that can impact a sentence, including prior offenses. K.S.A. § 21-6804 and K.S.A. § 21-6805

Notes: When a new felony is committed while the offender is on probation or assignment to a community correctional services program, the new sentence shall be imposed consecutively and the court may sentence the offender to imprisonment for the new conviction. K.S.A. § 22-3716

Prior to imposing a dispositional departure for a defendant whose offense is classified in the presumptive non-prison grid block of either sentencing guideline grid, prior to revocation of a non-prison sanction of a defendant whose offense classified in the presumptive non-prison grid block, the court shall consider placement of the defendant in the Labette correctional conservation camp, other conservation camps, or a community intermediate sanction center. Pursuant to this subsection the defendant shall not be sentenced to imprisonment if space is available in a conservation camp or community intermediate sanction center and the defendant meets all of the conservation camp’s or community intermediate sanction center’s placement criteria unless the court states on the record the reasons for not placing the defendant in a conservation camp or community intermediate sanction center. Labette Correctional Conservation is run by the Kansas Department of Corrections. K.S.A. § 21-6604

KENTUCKY:

Felony Defined: Offenses punishable by death or confinement in the penitentiary, whether or not a fine or other penalty may also be assessed, are felonies. KRS § 431.060

Lowest Level Felony: Class D KRS § 532.020

Sentence: Up to five years, no less than 1 year KRS § 532.020

Served Where: Prison or a county jail KRS § 532.020

Notes: If a Class D felon is sentenced to an indeterminate term of imprisonment of five years or less, he shall serve that sentence in a county jail (in a county where the fiscal court has agreed to house state prisoners). Counties choosing not to comply must be granted a waiver by the Department of Corrections. When an indeterminate sentence of 2 years or more is imposed on a Class D felon convicted of a sexual offence or certain other crimes, the sentence must be served

in a state institution. A Class D felon sentenced to more than 5 years for non-violent, non-sexual offenses who currently has less than 5 years of his sentence to serve, may serve the remainder in a county jail (in a county where the fiscal court has agreed to house state prisoners. The jailer of a county in which a Class D felon is incarcerated may request DRC to incarcerate the felon in a state institution if the jailer has reasons to believe the felon is an escape risk, a danger to himself or other inmates, an extreme security risk, or needs protective custody beyond that which can be provided in a county jail. KRS § 532.100 Persistent felony offenders must be sentenced to prison. KRS § 532.080

LOUISIANA:

Felony Defined: “Felony” means an offense that may be punished by death or by imprisonment at hard labor. La. C.Cr.P. Art. 933

Lowest Felony Level: Not broken down by class

Sentence: Not less than 1 year, not more than 5 years

Where Served: With the exception of sex offenses and 34 other felony offenses, an offender may receive probation instead of prison. If a felony or misdemeanor offense specifies a sentence has a minimum term of confinement or that the sentence shall be served without benefit of parole, probation, or suspension of sentence, the court shall impose the sentence as provided in the penalty provisions for that offense, unless a negotiated plea agreement or a post-conviction agreement allows otherwise. La. C.Cr.P. Art. 890.1

Notes: Louisiana has “prison districts” for people whose sentences do not exceed 5 years and who are not repeat (second or third) offenders. When it appears that the best interest of the public and of the defendant will be served, the court, after a first or second conviction of a noncapital felony, may suspend, in whole or in part, the imposition or execution of either or both sentences, where suspension is allowed under the law, and in either or both cases place the defendant on probation under the supervision of the division of probation and parole (also for drug courts and veterans courts). La. C.Cr.P. Art. 893

MAINE:

Lowest Level Felony: Maine does not distinguish between misdemeanors and felonies. It has five classes of crimes, the lowest of which is a Class E crime.

Sentence: Maximum of 6 months

Where Served: For a Class D or Class E crime the court must specify a county jail as the place of imprisonment.

Notes: Drug crimes are Class D crimes, punishable by less than one year. Probation violators and repeat offenders may be sentenced to the same institution as that which is specified by the new sentence.

Except for murder, all crimes defined by this Code are classified for purposes of sentencing as Class A, Class B, Class C, Class D and Class E crimes.

17-A M.R.S. § 4

A. For a Class D or Class E crime the court must specify a county jail as the place of imprisonment.

17-A M.R.S. § 1252

7. If a person on probation is convicted of a new crime during the period of probation, the court may sentence that person for the crime and revoke probation. If the person has been sentenced for the new crime and probation revocation proceedings are subsequently commenced, the court that conducts the revocation hearing may revoke probation. Sentencing for the multiple offenses is subject to section 1256. If concurrent terms of imprisonment are imposed and the terms do not commence on the same date, any time served as a result of the new conviction must be deducted from the time the person is required to serve as a result of the probation revocation. 7-A. Upon a finding of a violation of probation, the court may vacate all, part or none of the suspension of execution as to imprisonment or fine specified when probation was granted, considering the nature of the violation and the reasons for granting probation. The remaining portion of the sentence for which suspension of execution is not vacated upon the revocation of probation remains suspended and subject to revocation at a later date. During the service of that portion of the sentence imposed for which the suspension of execution was vacated upon revocation, the running of the period of probation must be interrupted and resumes again upon release. If the court finds a violation of probation but vacates none of the suspended sentence, the running of the period of probation resumes upon entry of that final disposition. The court may nevertheless revoke probation and vacate the suspension of execution as to the remainder of the suspended sentence or a portion thereof for any criminal conduct committed during the service of that portion of the sentence for which the suspension of execution was vacated upon revocation.

17-A M.R.S. § 1206

5. If a person has been placed on probation pursuant to a previously imposed sentence and the court determines that the previously imposed sentence and a new sentence shall be served consecutively, the court shall revoke probation pursuant to section 1206, subsections 7 and 7-A. The court may order that the sentence which had been suspended to be served at the same institution as that which is specified by the new sentence.

17-A M.R.S. § 1256

MARYLAND:

Felony Defined:

Lowest Felony Level: Not broken down by class

Sentence: 18 months or more

Where Served: A judge may sentence an individual to a local correctional facility if: (1) the sentence is not more than 18 months; and (2) the judge imposing the sentence is in a jurisdiction that is a party to the operation and maintenance of the local correctional facility to which the individual is sentenced. Md. CORRECTIONAL SERVICES Code Ann. § 9-105

Notes: A judge may not sentence an individual to the jurisdiction of the Division for 12 months or less unless: (1) the sentence is for an offense committed by an inmate in a correctional facility under the jurisdiction of the Division; and (2) the inmate is still under the jurisdiction of the Division [does not apply to someone sentenced in Baltimore]. Md. CORRECTIONAL SERVICES Code Ann. § 9-104

MASSACHUSETTS:

Felony Defined: A crime punishable by death or imprisonment in the state prison is a felony. All other crimes are misdemeanors.

Lowest Felony Level:

Sentence: Where an alternative sentence (to a house of correction) is permitted for an offense, a minimum state prison term may not be less than one year. If no punishment for a crime is provided by statute, the court shall impose such sentence, according to the nature of the crime, as conforms to the common usage and practice in the commonwealth. ALM GL ch. 279, § 24

Where Served: If a person is convicted of a misdemeanor punishable by imprisonment, he may be sentenced to imprisonment either in jail or in the house of correction. Whoever is convicted of a crime punishable wholly or in part by imprisonment in jail may be sentenced to such imprisonment in the house of correction or to confinement at hard labor either in the jail or house of correction; and if convicted of a crime punishable by imprisonment in the house of correction may be sentenced to such imprisonment in a jail. ALM GL ch. 279, § 5

Notes: Any court exercising jurisdiction is authorized to sentence any eligible offender to a community corrections program; Massachusetts has a state Office of Community Corrections.

MICHIGAN:

Felony Defined: means an offense for which the offender, upon conviction, may be punished by death or by imprisonment by more than one year or an offense expressly designated to be a felony MCLS § 750.7

Lowest Level Felony: Class G. Class G includes second-time controlled substances offenses that would be Class H if committed for the first time. MCLS § 777.68

Sentence: Up to 2 years for Class G. MCLS § 777.68

Where Served: Michigan uses a point system sentencing grid. If the upper limit of the cell range is 18 months or less, the court shall impose an “intermediate sanction” (non-prison, though felony) which may include a jail term that does not exceed the upper limit of the cell or 12 months, whichever is less, and the court cannot impose a sentence to state prison, absent a departure. MCLS § 769.34

Notes: A court can state on the record a substantial and compelling reason to sentence an individual with a sentence of less than 18 months to the department of corrections. All repeat offenses are subject to penalty enhancements. MCLS § 769.34

MINNESOTA:

Felony Defined: “Felony” means a crime for which a sentence of imprisonment for more than one year may be imposed. Minn. Stat. § 609.02

Lowest Level Felony: Minnesota utilizes a grid, with one axis for severity of crime and one axis for repeat offenses. Minn. Stat. § 609.11

Sentence: Presumptive stay of sentence for lowest felony level first-time offender. A felony sentence to imprisonment for more than one year shall commit the defendant to the custody of the commissioner of corrections. Minn. Stat. § 609.105. A sentence to imprisonment for a period of one year or any lesser period shall be to a workhouse, work farm, county jail, or other place authorized by law. Minn. Stat. § 609.105.

Where Served: Except when a mandatory minimum sentence is required, any court may stay imposition of sentence and (1) may order intermediate sanctions without placing the defendant on probation or (2) may place the defendant on probation with or without supervision. Minn. Stat. § 609.135

Notes: “Intermediate sanction” includes: local jail, workhouse, home detention, electronic monitoring, intensive probation, sentencing to service, day reporting, chemical dependency or mental health treatment or counseling, restitution, fines, community service, work in lieu of fines, and work in lieu of restitution (with victim’s consent).

MISSISSIPPI:

Felony Defined:

Lowest Level Felony: Not broken down by class.

Sentence:

Where Served: A person may serve a felony prison sentence in the county jail where convicted in two instances: (1) if ordered by the court, under certain circumstances (see notes) Miss. Code Ann. § 47-5-903; or (2) if the DRC determines there is not enough space in prison (see notes). Miss. Code Ann. § 47-5-901

Notes: (1) A person sentenced to the Department of Corrections may serve his sentence in the county jail of the county where convicted if (i) person is classified under Sec. 47-5-905; (ii) person is not classified as needing close supervision; (iii) the county sheriff must request in writing that the person be allowed to serve his sentence in the county jail; (iv) the county assumes full responsibility for care and expenses of housing the inmate. The county jail must be approved to house state inmates, per a federal court order. (2) the Commissioner of Corrections determines that physical space is not available for confinement of such person in the state correctional institutions. Department of Corrections pays for housing the offender. Miss. Code Ann. § 47-5-901

Mississippi recently passed the Prison Overcrowding Emergency Powers Act, which affects parole eligibility and is repealed effective July 1, 2018. Miss. Code Ann. § 47-5-703

MISSOURI:

Felony Defined:

Lowest Level Felony: Class E § 558.011 R.S.Mo.

Sentence: A term of years not to exceed 4 years or less than 1 year § 558.011 R.S.Mo.

Where Served: In cases of Class D and E felonies, the court shall have discretion to imprison for a special term not to exceed one year in the county jail or other authorized penal institution, and the place of confinement shall be fixed by the court. If the court imposes a sentence of imprisonment for a term longer than one year upon a person convicted of a Class D or E felony, it shall commit the person to the custody of the department of corrections. § 558.011 R.S.Mo.

MONTANA:

Felony Defined: The offense shall be designated a felony or misdemeanor based upon the maximum potential sentence which could be imposed by statute. 45-1-201, MCA “Felony” means an offense in which the sentence imposed upon conviction is death or imprisonment in a state prison for a term exceeding 1 year. 45-2-101, MCA

Lowest Level Felony: Class 5

Sentence: Specified by crime. When a statute authorizes imprisonment for its violation but does not prescribe the place of imprisonment, a sentence not to exceed 1 year shall be to the county jail. 46-18-211, MCA Otherwise, to prison and not to exceed 10 years 46-18-213, MCA

Where Served: All sentences under this chapter shall be imposed exclusively by the judge of the court. 46-18-103, MCA The department of corrections may provide community corrections facilities or programs for the rehabilitation of nonviolent felony offenders. 46-18-105, MCA A judge may defer imposition of a sentence or suspend a sentence, with sanctions that include detention in a local facility. 46-18-201, MCA A judge may also revoke and, after a hearing, continue sanctions without change, sentence to imprisonment for remainder of sentence, sentence to imprisonment for what would have been the original sentence (had it not been deferred). 46-18-203, MCA

NEW JERSEY

Felony Defined: An offense defined by this code or by any other statute of this State, for which a sentence of imprisonment in excess of 6 months is authorized, constitutes a crime within the meaning of the Constitution of this State. Crimes are designated in this code as being of the first, second, third or fourth degree.

Lowest Level Felony: Crime of the 4th Degree

Sentence: 9 months – 18 months

Where Served: Sentences for terms of 1 year or longer are to the Department of Corrections. Sentences for terms of 1 year or less are to the county jail, county workhouse, or county penitentiary.

Notes: When multiple sentences of imprisonment are imposed on a defendant for more than one offense, including an offense for which a previous suspended sentence or sentence of probation has been revoked, such multiple sentences shall run concurrently or consecutively as the court determines at the time of sentence, except that: (1) The aggregate of consecutive terms to a county institution shall not exceed 18 months; and (2) Not more than one sentence for an extended term shall be imposed. There shall be no overall outer limit on the cumulation of consecutive sentences for multiple offenses.

a. An offense defined by this code or by any other statute of this State, for which a sentence of imprisonment in excess of 6 months is authorized, constitutes a crime within the meaning of the Constitution of this State. Crimes are designated in this code as being of the first, second, third or fourth degree.

N.J. Stat. § 2C:1-4

a. Crimes defined by this code are classified, for the purpose of sentence, into four degrees, as follows: (1) Crimes of the first degree; (2) Crimes of the second degree; (3) Crimes of the third degree; and (4) Crimes of the fourth degree. A crime is of the first, second, third or fourth degree when it is so designated by the code. An offense, declared to be a crime, without specification of degree, is of the fourth degree. b. Notwithstanding any other provision of law, a crime defined by any statute of this State other than this code and designated as a high misdemeanor shall constitute for the purpose of sentence a crime of the third degree. Except as provided in sections 2C:1-4c. and 2C:1-5b. and notwithstanding any other provision of law, a crime defined by any statute of this State other than this code and designated as a misdemeanor shall constitute for the purpose of sentence a crime of the fourth degree.

N.J. Stat. § 2C:43-1

f. Presumptive Sentences. (1) Except for the crime of murder, unless the preponderance of aggravating or mitigating factors, as set forth in subsections a. and b., weighs in favor of a higher or lower term within the limits provided in N.J.S.2C:43-6, when a court determines that a sentence of imprisonment is warranted, it shall impose sentence as follows: (a) To a term of 20 years for aggravated manslaughter or kidnapping pursuant to paragraph (1) of subsection c. of N.J.S.2C:13-1 when the offense constitutes a crime of the first degree; (b) Except as provided in subparagraph (a) of this paragraph to a term of 15 years for a crime of the

first degree; (c) To a term of seven years for a crime of the second degree; (d) To a term of four years for a crime of the third degree; and (e) To a term of nine months for a crime of the fourth degree.

N.J. Stat. § 2C:44-1

a. Except as otherwise provided, a person who has been convicted of a crime may be sentenced to imprisonment, as follows: (1) In the case of a crime of the first degree, for a specific term of years which shall be fixed by the court and shall be between 10 years and 20 years; (2) In the case of a crime of the second degree, for a specific term of years which shall be fixed by the court and shall be between five years and 10 years; (3) In the case of a crime of the third degree, for a specific term of years which shall be fixed by the court and shall be between three years and five years; (4) In the case of a crime of the fourth degree, for a specific term which shall be fixed by the court and shall not exceed 18 months.

N.J. Stat. § 2C:43-6

a. Sentences for terms of 1 year or longer. Except as provided in section 2C:43-5 and in subsection b. of this section, when a person is sentenced to imprisonment for any term of 1 year or greater, the court shall commit him to the custody of the Commissioner of the Department of Corrections for the term of his sentence and until released in accordance with law.
b. County institution. In any county in which a county penitentiary or a county workhouse is located, a person sentenced to imprisonment for a return not exceeding 18 months may be committed to the penitentiary or workhouse of such county.
c.

Sentences for terms of less than 1 year. When a person is sentenced to imprisonment for a term of less than 1 year, the court shall commit him either to the common jail of the county, the county workhouse or the county penitentiary for the term of his sentence and until released in accordance with law. In counties of the first class having a workhouse or penitentiary, however, no sentence exceeding 6 months shall be to the common jail of the county.

N.J. Stat. § 2C:43-10

a. Sentences of imprisonment for more than one offense. When multiple sentences of imprisonment are imposed on a defendant for more than one offense, including an offense for which a previous suspended sentence or sentence of probation has been revoked, such multiple sentences shall run concurrently or consecutively as the court determines at the time of sentence, except that: (1) The aggregate of consecutive terms to a county institution shall not exceed 18 months; and (2) Not more than one sentence for an extended term shall be imposed. There shall be no overall outer limit on the cumulation of consecutive sentences for multiple offenses.

N.J. Stat. § 2C:44-5

NEBRASKA:

Lowest Level Felony: Class IV

Sentence: Discretionary 0 – 2 years

Where Served: “All sentences for maximum terms of imprisonment for one year or more for felonies shall be served in institutions under the jurisdiction of the Department of Correctional Services. All sentences for maximum terms of imprisonment of less than one year shall be served in the county jail.”

Notes: When the criminal offense is a Class IV felony, the court is required to impose a sentence of probation subject to a few exceptions. The court is not required to impose probation if there are substantial and compelling reasons why the defendant cannot effectively and safely be supervised in the community. Compelling reasons include a substantial risk that the offender will engage in criminal conduct during probation, the offender being in need of correctional treatment that can be provided most effectively by commitment to a correctional facility, or a lesser sentence depreciating the seriousness of the offender’s crime or promoting disrespect for the law. The court may also impose imprisonment over probation if the offender is a habitual offender. A habitual offender is one who has twice been convicted of a crime and sent to prison for not less than one year.

Class IV felony

Maximum - two years imprisonment and twelve months post-release supervision or ten thousand dollars fine, or both

Minimum - none for imprisonment and nine months post-release supervision if imprisonment is imposed

R.R.S. Neb. § 28-105

(2) All sentences for maximum terms of imprisonment for one year or more for felonies shall be served in institutions under the jurisdiction of the Department of Correctional Services. All sentences for maximum terms of imprisonment of less than one year shall be served in the county jail.

R.R.S. Neb. § 28-105

(1) Except when a term of probation is required by law as provided in subsection (2) of this section or except as otherwise provided in subsection (4) of this section, in imposing a sentence upon an offender for a Class III, IIIA, or IV felony, the court shall: (a) Impose a determinate sentence of imprisonment within the applicable range in section 28-105; and (b) Impose a sentence of post-release supervision, under the jurisdiction of the Office of Probation Administration, within the applicable range in section 28-105.

(2) If the criminal offense is a Class IV felony, the court shall impose a sentence of probation unless: (a) The defendant is concurrently or consecutively sentenced to imprisonment for any felony other than another Class IV felony; (b) The defendant has been deemed a habitual criminal pursuant to section 29-2221; or (c) There are substantial and compelling reasons why the defendant cannot effectively and safely be supervised in the community, including, but not limited to, the criteria in subsections (2) and (3) of section 29-2260. Unless other reasons are found to be present, that the offender has not previously succeeded on probation is not, standing alone, a substantial and compelling reason.

R.R.S. Neb. § 29-2204.02

(1) Whoever has been twice convicted of a crime, sentenced, and committed to prison, in this or any other state or by the United States or once in this state and once at least in any other state or by the United States, for terms of not less than one year each shall, upon conviction of a felony committed in this state, be deemed to be a habitual criminal and shall be punished by imprisonment in a Department of Correctional Services adult correctional facility for a mandatory minimum term of ten years and a maximum term of not more than sixty years, except that:

(a) If the felony committed is in violation of section 28-303, 28-304, 28-308, 28-313, 28-319, 28-319.01, 28-502, 28-929, or 28-1222, and at least one of the habitual criminal's prior felony convictions was for a violation of one of the sections listed in this subdivision or of a similar statute in another state or of the United States, the mandatory minimum term shall be twenty-five years and the maximum term not more than sixty years;

(b) If the felony committed is in violation of subsection (3) of section 28-306 and at least one of the prior convictions is in violation of subsection (3) of section 28-306 and the other is in violation of one of the sections set forth in subdivision (a) of this subsection or if the felony committed is in violation of one of the sections set forth in subdivision (a) of this subsection and both of the prior convictions are in violation of subsection (3) of section 28-306, the mandatory minimum term shall be twenty-five years and the maximum term not more than sixty years; and

(c) If a greater punishment is otherwise provided by statute, the law creating the greater punishment shall govern.

R.R.S. Neb. § 29-2221

(2) Whenever a court considers sentence for an offender convicted of either a misdemeanor or a felony for which mandatory or mandatory minimum imprisonment is not specifically required, the court may withhold sentence of imprisonment unless, having regard to the nature and circumstances of the crime and the history, character, and condition of the offender, the court finds that imprisonment of the offender is necessary for protection of the public because:

(a) The risk is substantial that during the period of probation the offender will engage in additional criminal conduct;

(b) The offender is in need of correctional treatment that can be provided most effectively by commitment to a correctional facility; or

(c) A lesser sentence will depreciate the seriousness of the offender's crime or promote disrespect for law.

(3) The following grounds, while not controlling the discretion of the court, shall be accorded weight in favor of withholding sentence of imprisonment: (a) The crime neither caused nor threatened serious harm; (b) The offender did not contemplate that his or her crime would cause or threaten serious harm; (c) The offender acted under strong provocation; (d) Substantial grounds were present tending to excuse or justify the crime, though failing to establish a defense; (e) The victim of the crime induced or facilitated commission of the crime; (f) The offender has compensated or will compensate the victim of his or her crime for the damage or injury the victim sustained; (g) The offender has no history of prior delinquency or criminal activity and has led a law-abiding life for a substantial period of time before the commission of the crime; (h) The crime was the result of circumstances unlikely to recur; (i) The character and attitudes of the offender indicate that he or she is unlikely to commit another crime; (j) The offender is likely to respond

affirmatively to probationary treatment; and (k) Imprisonment of the offender would entail excessive hardship to his or her dependents.

(4) When an offender who has been convicted of a crime is not sentenced to imprisonment, the court may sentence him or her to probation.

R.R.S. Neb. § 29-2260

NEVADA:

Felony defined: Every crime which may be punished by death or by imprisonment in the state prison is a felony.

Lowest Level Felony: Category E

Sentence: Mandatory 1 – 4 years

Where Served: State prison

Notes: A category E felony requires the court to suspend the execution of the sentence imposed and grant probation. The court may, as it deems advisable, decide not to suspend execution of the sentence imposed if, at the time of sentencing, it is established that the person was serving a term of probation or was on parole at the time the crime was committed, had previously had the person's probation or parole revoked, had previously been assigned to a program of treatment and rehabilitation that they failed to successfully complete, or had previously been convicted two times of a felony. Additionally, upon determining that a probationer has violated a condition of probation the court may revoke the probation or suspension of sentence and cause the sentence to be executed.

(b) A category E felony, except as otherwise provided in this paragraph, the court shall suspend the execution of the sentence imposed and grant probation to the person. The court may, as it deems advisable, decide not to suspend the execution of the sentence imposed and grant probation to the person if, at the time of sentencing, it is established that the person:

(1) Was serving a term of probation or was on parole at the time the crime was committed, whether in this State or elsewhere, for a felony conviction;

(2) Had previously had the person's probation or parole revoked, whether in this state or elsewhere, for a felony conviction;

(3) Had previously been assigned to a program of treatment and rehabilitation pursuant to NRS 453.580 and failed to successfully complete that program; or

(4) Had previously been two times convicted, whether in this State or elsewhere, of a crime that under the laws of the situs of the crime or of this State would amount to a felony.

If the person denies the existence of a previous conviction, the court shall determine the issue of the previous conviction after hearing all relevant evidence presented on the issue by the prosecution and the person. At such a hearing, the person may not challenge the validity of a previous conviction. For the

purposes of this paragraph, a certified copy of a felony conviction is prima facie evidence of conviction of a prior felony.

Nev. Rev. Stat. Ann. § 176A.100 (Nevada)

If the probationer is arrested, by or without warrant, in another judicial district of this state, the court which granted the probation may assign the case to the district court of that district, with the consent of that court. The court retaining or thus acquiring jurisdiction shall cause the defendant to be brought before it, consider the standards adopted pursuant to NRS 213.10988 and the recommendation, if any, of the Chief Parole and Probation Officer. Upon determining that the probationer has violated a condition of probation, the court shall, if practicable, order the probationer to make restitution for any necessary expenses incurred by a governmental entity in returning the probationer to the court for violation of the probation. The court may: 1. Continue or revoke the probation or suspension of sentence; 2. Order the probationer to a term of residential confinement pursuant to NRS 176A.660; 3. Order the probationer to undergo a program of regimental discipline pursuant to NRS 176A.780; 4. Cause the sentence imposed to be executed; or 5. Modify the original sentence imposed by reducing the term of imprisonment and cause the modified sentence to be executed. The court shall not make the term of imprisonment less than the minimum term of imprisonment prescribed by the applicable penal statute. If the Chief Parole and Probation Officer recommends that the sentence of a probationer be modified and the modified sentence be executed, the Chief Parole and Probation Officer shall provide notice of the recommendation to any victim of the crime for which the probationer was convicted who has requested in writing to be notified and who has provided a current address to the Division. The notice must inform the victim that he or she has the right to submit documents to the court and to be present and heard at the hearing to determine whether the sentence of a probationer who has violated a condition of probation should be modified. The court shall not modify the sentence of a probationer and cause the sentence to be executed until it has confirmed that the Chief Parole and Probation Officer has complied with the provisions of this subsection. The Chief Parole and Probation Officer must not be held responsible when such notification is not received by the victim if the victim has not provided a current address. All personal information, including, but not limited to, a current or former address, which pertains to a victim and which is received by the Division pursuant to this subsection is confidential.

Nev. Rev. Stat. Ann. § 176A.630

1. A crime is an act or omission forbidden by law and punishable upon conviction by death, imprisonment, fine or other penal discipline. 2. Every crime which may be punished by death or by imprisonment in the state prison is a felony. 3. Every crime punishable by a fine of not more than \$1,000, or by imprisonment in a county jail for not more than 6 months, is a misdemeanor. 4. Every other crime is a gross misdemeanor.

Nev. Rev. Stat. Ann. § 193.120

2. Except as otherwise provided by specific statute, for each felony committed on or after July 1, 1995: (a) A category A felony is a felony for which a sentence of death or imprisonment in the state prison for life with or without the possibility of parole may be imposed, as provided by specific statute. (b) A category B felony is a felony for which the minimum term of imprisonment in the state prison that may be imposed is not less than 1 year and the maximum term of imprisonment that may be imposed is not more than 20 years, as provided by specific statute. (c) A category C felony is a felony for which a court shall sentence a convicted person to imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 5 years. In addition to any other penalty, the court may impose a fine of not more than \$10,000, unless a greater fine is authorized or required by statute. (d) A category D felony

is a felony for which a court shall sentence a convicted person to imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 4 years. In addition to any other penalty, the court may impose a fine of not more than \$5,000, unless a greater fine is authorized or required by statute. (e) A category E felony is a felony for which a court shall sentence a convicted person to imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 4 years. Except as otherwise provided in paragraph (b) of subsection 1 of NRS 176A.100, upon sentencing a person who is found guilty of a category E felony, the court shall suspend the execution of the sentence and grant probation to the person upon such conditions as the court deems appropriate. Such conditions of probation may include, but are not limited to, requiring the person to serve a term of confinement of not more than 1 year in the county jail. In addition to any other penalty, the court may impose a fine of not more than \$5,000, unless a greater penalty is authorized or required by statute.

Nev. Rev. Stat. Ann. § 193.130

NEW HAMPSHIRE:

Felony defined: A felony is murder or a crime so designated by statute within or outside of the code or a crime defined by statute outside of this code where the maximum penalty provided is imprisonment in excess of one year.

Lowest Level Felony: Class B

Sentence: Discretionary 1 – 7 years

Where Served: Whenever the sentence for an offense is to be imprisonment for a maximum of more than one year, the sentence shall be served in the state prison.

Notes: A person may be placed on probation if the court finds that such person is in need of the supervision and guidance that the probation service can provide under such conditions as the court may impose. The period of probation shall be for a period to be fixed by the court not to exceed 5 years for a felony and 2 years for a class A misdemeanor. Upon petition of the probation officer or the probationer, the period may be terminated sooner by the court if the conduct of the probationer warrants it.

“Habitual offender” means any resident or nonresident person whose record, as maintained in the office of the division, shows that such person has accumulated convictions in the number provided in paragraph I, II or III of this section for those offenses listed therein and committed within a 5-year period, based on the date of the offense. After a conviction for an offense listed either in paragraph I or in paragraph II and during the 5-year period, if a subsequent single incident results in convictions for more than one offense under the same paragraph, each such conviction may be counted separately for the purpose of certifying a person as an habitual offender. A person who meets the requirements of one of the following 3 paragraphs shall be certified as an habitual offender:

RSA 259:39

III. A felony is murder or a crime so designated by statute within or outside this code or a crime defined by statute outside of this code where the maximum penalty provided is imprisonment in excess of one year; provided, however, that a crime defined by statute outside of this code is a felony when committed by a corporation or an unincorporated association if the maximum fine therein provided is more than \$200.

(a) Felonies other than murder are either class A felonies or class B felonies when committed by an individual. Felonies committed by a corporation or an unincorporated association are unclassified.

(1) Class A felonies are crimes so designated by statute within or outside this code and any crime defined by statute outside of this code for which the maximum penalty, exclusive of fine, is imprisonment in excess of 7 years.

(2) Class B felonies are crimes so designated by statute within or outside this code and any crime defined outside of this code for which the maximum penalty, exclusive of fine, is imprisonment in excess of one year but not in excess of 7 years.

RSA 625:9

I. A person convicted of a felony or a Class A misdemeanor may be sentenced to imprisonment, probation, conditional or unconditional discharge, or a fine. II. If a sentence of imprisonment is imposed, the court shall fix the maximum thereof which is not to exceed: (a) Fifteen years for a class A felony, (b) Seven years for a class B felony, (c) One year for a class A misdemeanor, (d) Life imprisonment for murder in the second degree, and, in the case of a felony only, a minimum which is not to exceed ½ of the maximum, or if the maximum is life imprisonment, such minimum term as the court may order.

RSA 651:2

Whenever the sentence for an offense is to be imprisonment for a maximum of more than one year, the sentence shall be served in the state prison.

RSA 651:15

I. Whenever a person is sentenced either (a) For a misdemeanor under the provisions of RSA 651:2; or (b) For a felony under the provisions of RSA 651:2; or (c) For an extended term of imprisonment under RSA 651:6, and the maximum term thereof does not exceed one year.

II. The sentence shall be that the offender be confined to hard labor, for the term ordered by the court, in the county correctional facility of the county in which the crime was committed if such county has a correctional facility, or in the county correctional facility designated by agreement in RSA 30-B:1.

RSA 651:17

A person may be placed on probation if the court finds that such person is in need of the supervision and guidance that the probation service can provide under such conditions as the court may impose. The period of probation shall be for a period to be fixed by the court not to exceed 5 years for a felony and 2 years for a class A misdemeanor. Upon petition of the probation officer or the probationer, the period may be terminated sooner by the court if the conduct of the probationer warrants it.

RSA 651:2

NEW YORK:

Felony defined: “Felony” means an offense for which a sentence to a term of imprisonment in excess of one year may be imposed.

Lowest Level Felony: Class E

Sentence: The term must be at least three years and must not exceed four years.

Where Served: In the case of an indeterminate sentence of imprisonment, commitment must be to the custody of the state department of corrections and community supervision.

Notes: A sentence imposed for a felony shall be an indeterminate sentence. The minimum period of imprisonment under an indeterminate sentence shall be at least one year. When a person, other than a second or persistent felony offender, is sentenced for a class D or class E felony, and the court having regard to the nature and circumstances of the crime and to the history and character of the defendant, is of the opinion that a sentence of imprisonment is necessary but that it would be unduly harsh to impose an indeterminate or determinate sentence, the court may impose a definite sentence of imprisonment and fix a term of one year or less.

1. Definition of second felony offender.

(a) A second felony offender is a person, other than a second violent felony offender as defined in section 70.04, who stands convicted of a felony defined in this chapter, other than a class A-I felony, after having previously been subjected to one or more predicate felony convictions as defined in paragraph (b) of this subdivision.

(b) For the purpose of determining whether a prior conviction is a predicate felony conviction the following criteria shall apply:

(i) The conviction must have been in this state of a felony, or in any other jurisdiction of an offense for which a sentence to a term of imprisonment in excess of one year or a sentence of death was authorized and is authorized in this state irrespective of whether such sentence was imposed;

(ii) Sentence upon such prior conviction must have been imposed before commission of the present felony;

(iii) Suspended sentence, suspended execution of sentence, a sentence of probation, a sentence of conditional discharge or of unconditional discharge, and a sentence of certification to the care and custody of the division of substance abuse services, shall be deemed to be a sentence;

(iv) Except as provided in subparagraph (v) of this paragraph, sentence must have been imposed not more than ten years before commission of the felony of which the defendant presently stands convicted;

(v) In calculating the ten year period under subparagraph (iv), any period of time during which the person was incarcerated for any reason between the time of commission of the previous felony and the time of commission of the present felony shall be excluded and such ten year period shall be extended by a period or periods equal to the time served under such incarceration;

(vi) An offense for which the defendant has been pardoned on the ground of innocence shall not be deemed a predicate felony conviction.

2. [Expires Sept 1, 2017; as amended L 2007, ch 7, § 38] Authorized sentence. Except as provided in subdivision five or six of this section, or as provided in subdivision five of section 70.80 of this article, when the court has found, pursuant to the provisions of the criminal procedure law, that a person is a second felony offender the court must impose an indeterminate sentence of imprisonment. The maximum term of such sentence must be in accordance with the provisions of subdivision three of this section and the minimum period of imprisonment under such sentence must be in accordance with subdivision four of this section.

3. [Expires Sept 1, 2017; as amended L 2007, ch 7, § 38] Maximum term of sentence. Except as provided in subdivision five or six of this section, or as provided in subdivision five of section 70.80 of this article, the maximum term of an indeterminate sentence for a second felony offender must be fixed by the court as follows:

- (a) For a class A-II felony, the term must be life imprisonment;
- (b) For a class B felony, the term must be at least nine years and must not exceed twenty-five years;
- (c) For a class C felony, the term must be at least six years and must not exceed fifteen years;
- (d) For a class D felony, the term must be at least four years and must not exceed seven years; and
- (e) For a class E felony, the term must be at least three years and must not exceed four years; provided, however, that where the sentence is for the class E felony offense specified in section 240.32 of this chapter, the maximum term must be at least three years and must not exceed five years.

3. [Eff Sept 1, 2017; as amended L 2007, ch 7, § 39] Maximum term of sentence. Except as provided in subdivision five of this section, or as provided in subdivision five of section 70.80 of this article, the maximum term of an indeterminate sentence for a second felony offender must be fixed by the court as follows:

- (a) For a class A-II felony, the term must be life imprisonment;
- (b) For a class B felony, the term must be at least nine years and must not exceed twenty-five years;
- (c) For a class C felony, the term must be at least six years and must not exceed fifteen years;
- (d) For a class D felony, the term must be at least four years and must not exceed seven years; and
- (e) For a class E felony, the term must be at least three years and must not exceed four years.

4. Minimum period of imprisonment

(a) The minimum period of imprisonment for a second felony offender convicted of a class A-II felony must be fixed by the court at no less than six years and not to exceed twelve and one-half years and must be specified in the sentence, except that for the class A-II felony of predatory sexual assault as defined in section 130.95 of this chapter or the class A-II felony of predatory sexual assault against a child as defined in section 130.96 of this chapter, such minimum period shall be not less than ten years nor more than twenty-five years.

(b) Except as provided in paragraph (a), the minimum period of imprisonment under an indeterminate sentence for a second felony offender must be fixed by the court at one-half of the maximum term imposed and must be specified in the sentence.

NY CLS Penal § 70.06 (New York)

Indeterminate sentences. In the case of an indeterminate sentence of imprisonment, commitment must be to the custody of the state department of corrections and community supervision as provided in subdivision one of section 70.20 of the penal law. The order of commitment must direct that the defendant be delivered to an institution designated by the commissioner of corrections and community supervision in accordance with the provisions of the correction law.

NY CLS CPL § 430.20

“Felony” means an offense for which a sentence to a term of imprisonment in excess of one year may be imposed.

NY CLS Penal § 10.00

Indeterminate sentence. Except as provided in subdivisions four and five of this section or section 70.80 of this article, a sentence of imprisonment for a felony, other than a felony defined in article two hundred twenty or two hundred twenty-one of this chapter, shall be an indeterminate sentence. When such a sentence is imposed, the court shall impose a maximum term in accordance with the provisions of subdivision two of this section and the minimum period of imprisonment shall be as provided in subdivision three of this section.² Maximum term of sentence. The maximum term of an indeterminate sentence shall be at least three years and the term shall be fixed as follows: (a) For a class A felony, the term shall be life imprisonment; (b) For a class B felony, the term shall be fixed by the court, and shall not exceed twenty-five years; (c) For a class C felony, the term shall be fixed by the court, and shall not exceed fifteen years; (d) For a class D felony, the term shall be fixed by the court, and shall not exceed seven years; and (e) For a class E felony, the term shall be fixed by the court, and shall not exceed four years.

NY CLS Penal § 70.00

Minimum period of imprisonment. The minimum period of imprisonment under an indeterminate sentence shall be at least one year and shall be fixed as follows:

For any other felony, the minimum period shall be fixed by the court and specified in the sentence and shall be not less than one year nor more than one-third of the maximum term imposed.

NY CLS Penal § 70.00

Alternative definite sentence for class D and E felonies. When a person, other than a second or persistent felony offender, is sentenced for a class D or class E felony, and the court, having regard to the nature and circumstances of the crime and to the history and character of the defendant, is of the opinion that a sentence of imprisonment is necessary but that it would be unduly harsh to impose an indeterminate or determinate sentence, the court may impose a definite sentence of imprisonment and fix a term of one year or less.

NY CLS Penal § 70.00

NEW MEXICO:

Felony defined: A crime is a felony if it is so designated by law or if upon conviction thereof a sentence of death or of imprisonment for a term of one year or more is authorized.

Lowest Level of Felony: Fourth Degree

Sentence: Listed by Offense

Where Served: Persons sentenced to imprisonment for a term of one year or more shall be imprisoned in a corrections facility designated by the corrections department.

Notes: Gives judges the discretion to impose a local sentencing option for sentences of 1 year – 18 months under certain circumstances.

A person convicted of a noncapital felony who has incurred one prior felony conviction that was part of a separate transaction or occurrence or conditional discharge is a habitual offender and his basic sentence shall be increased by one year. The sentence imposed pursuant to this subsection shall not be suspended or deferred, unless the court makes a specific finding that the prior felony conviction and the instant felony conviction are both for nonviolent felony offenses and that justice will not be served by imposing a mandatory sentence of imprisonment and that there are substantial and compelling reasons, stated on the record, for departing from the sentence imposed pursuant to this subsection.

A crime is a felony if it is so designated by law or if upon conviction thereof a sentence of death or of imprisonment for a term of one year or more is authorized.

N.M. Stat. Ann. § 30-1-6

Felonies under the Criminal Code [30-1-1 NMSA 1978] are classified as follows: A. capital felonies; B. first degree felonies; C. second degree felonies; D. third degree felonies; and E. fourth degree felonies. A felony is a capital, first, second, third or fourth degree felony when it is so designated under the Criminal Code [30-1-1 NMSA 1978]. A crime declared to be a felony, without specification of degree, is a felony of the fourth degree.

N.M. Stat. Ann. § 30-1-7

A. A person convicted of a noncapital felony in this state whether within the Criminal Code [30-1-1 NMSA 1978] or the Controlled Substances Act [30-31-1 NMSA 1978] or not who has incurred one prior felony conviction that was part of a separate transaction or occurrence or conditional discharge under Section 31-20-13 NMSA 1978 is a habitual offender and his basic sentence shall be increased by one year. The sentence imposed pursuant to this subsection shall not be suspended or deferred, unless the court makes a specific finding that the prior felony conviction and the instant felony conviction are both for nonviolent felony offenses and that justice will not be served by imposing a mandatory sentence of imprisonment and that there are substantial and compelling reasons, stated on the record, for departing from the sentence imposed pursuant to this subsection.

N.M. Stat. Ann. § 31-18-17 (New Mexico)

A. Persons sentenced to imprisonment for a term of one year or more shall be imprisoned in a corrections facility designated by the corrections department, unless a new trial is granted or a portion of the sentence is suspended so as to provide for imprisonment for not more than eighteen months; then the imprisonment may be in such place of incarceration, other than a corrections facility under the jurisdiction of the corrections department, as the sentencing judge, in his discretion, may prescribe; provided that a sentence of imprisonment for one year or more but not more than eighteen months shall be subject to the provisions of Subsections D and E of this section and shall not be imposed unless the requirements set forth in Subsection D of this section are satisfied.

N.M. Stat. Ann. § 31-20-2

D. A sentence of one year or more but not more than eighteen months and providing for imprisonment in a place of incarceration other than a corrections facility under the jurisdiction of the corrections department pursuant to Subsection A of this section, which shall be known as the local sentencing option, shall not be imposed unless:

- (1) the place of incarceration is located within the county in which the crime was committed; and
- (2) the governing authority in charge of the place of incarceration has entered into a joint powers agreement with the corrections department setting forth:
 - (a) the amount of money the corrections department shall pay for offenders sentenced to a term of one year or more but not more than eighteen months and the number of offenders which may be sentenced to such terms; and
 - (b) any other provisions deemed appropriate and agreed to by the local governing body and the corrections department.

N.M. Stat. Ann. § 31-20-2 (New Mexico)

NORTH CAROLINA:

Felony Defined: A felony is a crime which was a felony at common law, is or may be punishable by death, is or may be punishable by imprisonment in the State's prison, or is denominated as a felony by statute. Any other crime is a misdemeanor.

Lowest Level Felony: Class I

Sentence: 3 months – 1 year.

Where Served: A person sentenced to imprisonment for a felony under this Article shall be committed for the term designated by the court to the custody of the Division of Adult Correction of the Department of Public Safety.

A felony is a crime which: (1) Was a felony at common law; (2) Is or may be punishable by death; (3) Is or may be punishable by imprisonment in the State's prison; or (4) Is denominated as a felony by statute. Any other crime is a misdemeanor.

N.C. Gen. Stat. § 14-1

When any person is charged by indictment with the commission of a felony under the laws of the State of North Carolina and is also charged with being an habitual felon as defined in G.S. 14-7.1, he must, upon conviction, be sentenced and punished as an habitual felon, as in this Chapter provided, except in those cases where the death penalty or a life sentence is imposed.

N.C. Gen. Stat. § 14-7.2

When any person is charged by indictment with the commission of a felony under the laws of the State of North Carolina and is also charged with being an habitual felon as defined in G.S. 14-7.1, he must, upon conviction, be sentenced and punished as an habitual felon, as in this Chapter provided, except in those cases where the death penalty or a life sentence is imposed.

N.C. Gen. Stat. § 14-7.2

In all cases where a defendant has been convicted in a court inferior to the superior court and sentenced to a term in the county jail or to serve in some county institution other than under the supervision of the State Division of Adult Correction of the Department of Public Safety, and such defendant is subsequently brought before such court for an offense committed prior to the expiration of the term to be served in such county institution, upon conviction, plea of guilty or nolo contendere, the judge shall have the power and authority to change the place of confinement of the prisoner and commit such defendant to work under the supervision of the Division of Adult Correction of the Department of Public Safety. This provision shall apply whether or not the terms of the new sentence are to run concurrently with or consecutive to the remaining portion of the old sentence.

N.C. Gen. Stat. § 15-6.1

(b) A person sentenced to imprisonment for a felony under this Article or for nonpayment of a fine for conviction of a felony under Article 84 of this Chapter shall be committed for the term designated by the court to the custody of the Division of Adult Correction of the Department of Public Safety.

N.C. Gen. Stat. § 15A-1352

NORTH DAKOTA:

Lowest Level Felony: Class C

Sentence: Maximum penalty of 5 years

Where Served: State Correctional Facility

Notes: Authorizes the court to suspend execution of all or a part of the sentence imposed and place the defendant on probation during the term of the suspension. A person who is convicted of a felony and sentenced to imprisonment for not more than one year is deemed to have been convicted of a misdemeanor upon successful completion of the term of imprisonment and a term of probation imposed as part of the sentence.

Offenses are divided into seven classes, which are denominated and subject to maximum penalties, as follows:

1. Class AA felony, for which a maximum penalty of life imprisonment without parole may be imposed. The court must designate whether the life imprisonment sentence imposed is with or without an opportunity for parole. Notwithstanding the provisions of section 12-59-05, a person found guilty of a class AA felony and who receives a sentence of life imprisonment with parole, shall not be eligible to have that person's sentence considered by the parole board for thirty years, less sentence reduction earned for good conduct, after that person's admission to the penitentiary.
2. Class A felony, for which a maximum penalty of twenty years' imprisonment, a fine of twenty thousand dollars, or both, may be imposed.
3. Class B felony, for which a maximum penalty of ten years' imprisonment, a fine of twenty thousand dollars, or both, may be imposed.
4. Class C felony, for which a maximum penalty of five years' imprisonment, a fine of ten thousand dollars, or both, may be imposed.
5. Class A misdemeanor, for which a maximum penalty of one year's imprisonment, a fine of three thousand dollars, or both, may be imposed.

N.D. Cent. Code, § 12.1-32-01

1. Every person convicted of an offense who is sentenced by the court must be sentenced to one or a combination of the following alternatives, unless the sentencing alternatives are otherwise specifically provided in the statute defining the offense or sentencing is deferred under subsection 4:
 - a. Payment of the reasonable costs of the person's prosecution.
 - b. Probation.
 - c. A term of imprisonment, including intermittent imprisonment:
 - (1) In a state correctional facility in accordance with section 29-27-07, in a regional corrections center, or in a county jail, if convicted of a felony or a class A misdemeanor.
 - (2) In a county jail or in a regional corrections center, if convicted of a class B misdemeanor.
 - (3) In a facility or program deemed appropriate for the treatment of the individual offender, including available community-based programs.
 - (4) In the case of persons convicted of an offense who are under eighteen years of age at the time of sentencing, the court is limited to sentencing the minor defendant to a term of imprisonment in the custody of the department of corrections and rehabilitation.
3. A court may suspend the execution of all or a part of the sentence imposed. The court shall place the defendant on probation during the term of suspension.
4. A court, upon application or its own motion, may defer imposition of sentence. The court must place the defendant on probation during the period of deferment. An order deferring imposition of sentence is reviewable upon appeal from a verdict or judgment. In any subsequent prosecution, for any other offense, the prior conviction for which imposition of sentence is deferred may be pleaded and proved, and has the

same effect as if probation had not been granted or the information or indictment dismissed under section 12.1-32-07.1.

9. A person who is convicted of a felony and sentenced to imprisonment for not more than one year is deemed to have been convicted of a misdemeanor upon successful completion of the term of imprisonment and a term of probation imposed as a part of the sentence. This subsection does not apply to a person convicted of violating subdivision a, b, or c of subsection 1 of section 19-03.1-23.

N.D. Cent. Code, § 12.1-32-02

OHIO

Felony Defined: 2901.01

(D) Regardless of the penalty that may be imposed, any offense specifically classified as a felony is a felony, and any offense specifically classified as a misdemeanor is a misdemeanor.

(E) Any offense not specifically classified is a felony if imprisonment for more than one year may be imposed as a penalty.

Lowest Level Felony: Felony 5

Where Served: First time nonviolent Felony 4 and Felony 5 offenders must be sentenced to a community-control sanction.

Notes: A Felony 4 or Felony 5 offender may be sentenced to prison for, among other things, repeat offenses and violations of community control.

OKLAHOMA:

Felony Defined: A felony is a crime which is, or may be, punishable with death, or by imprisonment in the penitentiary.

Lowest Level Felony:

Where Served: Felonies are prison eligible. Any person who has been convicted of a nonviolent felony offense in this state may be sentenced, at the discretion of the judge, to incarceration in the county jail for a period of one or more nights or weekends with the remaining portion of each week being spent under supervision. County jail imprisonment pursuant to the provisions of this section for felony offenders shall be: 1. Prescribed by law for the particular felony; or 2. A condition of a suspended sentence.

A felony is a crime which is, or may be, punishable with death, or by imprisonment in the penitentiary.

21 Okl. St. § 5

Except in cases where a different punishment is prescribed by this title, or by some existing provision of law, every offense declared to be a felony is punishable by a fine not exceeding One Thousand Dollars (\$1,000.00), or by imprisonment in the State Penitentiary not exceeding two (2) years, or by both such fine and imprisonment.

21 Okl. St. § 9

A. Any person who has been convicted of a nonviolent felony offense in this state may be sentenced, at the discretion of the judge, to incarceration in the county jail for a period of one or more nights or weekends with the remaining portion of each week being spent under supervision. County jail imprisonment pursuant to the provisions of this section for felony offenders shall be: 1. Prescribed by law for the particular felony; or 2. A condition of a suspended sentence.

22 Okl. St. § 991a-2

E. When the court sentences a person to incarceration pursuant to the provisions of this section in conjunction with a suspended sentence, the court shall have the authority to revoke any unserved portion of the suspended sentence as provided by law.

22 Okl. St. § 991a-2

OREGON:

Felony Defined: Except as provided in ORS 161.585 and 161.705, a crime is a felony if it is so designated in any statute of this state or if a person convicted under a statute of this state may be sentenced to a maximum term of imprisonment of more than one year.

Lowest Level Felony: Class C

Sentence: Maximum term of 5 years

Where Served: If the court imposes a sentence that exceeds 12 months, sentenced to the Department of Corrections. If the court imposes a sentence that is 12 months or less, sentenced to the county.

Notes: Offenders may be placed on probation. For defendants sentenced for felonies committed on or after November 1, 1989, the court that imposed the probationary sentence may, upon a violation of probation, revoke probation supervision and impose a sanction as provided by rules of the Oregon Criminal Justice Commission.

(1) If the court imposes a sentence upon conviction of a felony that includes a term of incarceration that exceeds 12 months:

(a) The court shall not designate the correctional facility in which the defendant is to be confined but shall commit the defendant to the legal and physical custody of the Department of Corrections; and

(b) If the judgment provides that the term of incarceration be served consecutively to a term of incarceration of 12 months or less that was imposed in a previous proceeding by a court of this state upon

conviction of a felony, the defendant shall serve any remaining part of the previously imposed term of incarceration in the legal and physical custody of the Department of Corrections.

(2)

(a) If the court imposes a sentence upon conviction of a felony that includes a term of incarceration that is 12 months or less, the court shall commit the defendant to the legal and physical custody of the supervisory authority of the county in which the crime of conviction occurred.

(b) Notwithstanding paragraph (a) of this subsection, when the court imposes a sentence upon conviction of a felony that includes a term of incarceration that is 12 months or less, the court shall commit the defendant to the legal and physical custody of the Department of Corrections if the court orders that the term of incarceration be served consecutively to a term of incarceration that exceeds 12 months that was imposed in a previous proceeding or in the same proceeding by a court of this state upon conviction of a felony.

ORS § 137.124 (Oregon)

Except as provided in ORS 161.585 and 161.705, a crime is a felony if it is so designated in any statute of this state or if a person convicted under a statute of this state may be sentenced to a maximum term of imprisonment of more than one year.

ORS § 161.525

(1) Felonies are classified for the purpose of sentence into the following categories:

- (a) Class A felonies;
- (b) Class B felonies;
- (c) Class C felonies; and
- (d) Unclassified felonies.

(2) The particular classification of each felony defined in the Oregon Criminal Code, except murder under ORS 163.115 and treason under ORS 166.005, is expressly designated in the section defining the crime. An offense defined outside this code which, because of the express sentence provided is within the definition of ORS 161.525, shall be considered an unclassified felony.

ORS § 161.535

A crime is a misdemeanor if it is so designated in any statute of this state or if a person convicted thereof may be sentenced to a maximum term of imprisonment of not more than one year.

ORS § 161.545

The maximum term of an indeterminate sentence of imprisonment for a felony is as follows:

- (1) For a Class A felony, 20 years.
- (2) For a Class B felony, 10 years.
- (3) For a Class C felony, 5 years.
- (4) For an unclassified felony as provided in the statute defining the crime.

ORS § 161.605

For defendants sentenced for felonies committed on or after November 1, 1989, the court that imposed the probationary sentence may revoke probation supervision and impose a sanction as provided by rules of the Oregon Criminal Justice Commission.

ORS § 137.545

PENNSYLVANIA:

Lowest Level Felony: Felony of the 3rd Degree

Sentence: Maximum term of 7 years

Where Served: Maximum terms of 5 years or more are committed to the Department of Corrections. Maximum terms of 2 – 5 years are committed to the Department of Corrections unless the chief administrator of the county prison, or the administrator’s designee, has certified that the county prison is available for the commitment of persons sentenced to maximum terms of two or more years but less than five years, the attorney for the Commonwealth has consented to the confinement of the person in the county prison, the sentencing court has approved the confinement of the person in the county prison within the jurisdiction of the court. Maximum terms of less than two years are committed to a county prison.

Notes: County prisons differ from county jails.

(a) General rule. — In imposing a sentence of total confinement the court shall at the time of sentencing specify any maximum period up to the limit authorized by law and whether the sentence shall commence in a correctional or other appropriate institution.

(b) Minimum sentence. (1) The court shall impose a minimum sentence of confinement which shall not exceed one-half of the maximum sentence imposed. (2) The minimum sentence imposed under this section may not be reduced through parole prior to the expiration of the minimum sentence unless otherwise authorized by this section or other law. (3) Except where the maximum sentence imposed is two years or more, and except where a mandatory minimum sentence of imprisonment or total confinement is required by law, the court shall, at the time of sentencing, state whether or not the defendant is eligible to participate in a reentry plan at any time prior to the expiration of the minimum sentence or at the expiration of a specified portion of the minimum sentence. For maximum sentences of less than two years as defined under section 9762(f) (relating to sentencing proceeding; place of confinement), a court may parole a defendant prior to the expiration of the minimum sentence only if the defendant was made eligible to participate in a reentry plan at the time of sentencing. The court shall provide at least ten days’ written notice and an opportunity to be heard, pursuant to section 9776 (relating to judicial power to release inmates), to the prosecuting attorney before granting parole pursuant to this subsection. The reentry plan eligibility shall be considered a part of the sentence and subject to the requirements relating to the entry, recording and reporting of sentences.

42 Pa.C.S. § 9756

(c) Limitation on sentence of total confinement. — The court shall not impose a sentence of total confinement upon revocation unless it finds that: (1) the defendant has been convicted of another crime; or (2) the conduct of the defendant indicates that it is likely that he will commit another crime if he is not imprisoned; or (3) such a sentence is essential to vindicate the authority of the court.

42 Pa.C.S. § 9771

RHODE ISLAND:

Felony Defined: Unless otherwise provided, any criminal offense which at any given time may be punished by imprisonment for a term of more than one year, or by a fine of more than one thousand dollars, is declared to be a felony.

Lowest Level Felony: Maximum term of imprisonment listed by offense.

Where Served: Whenever it is provided that any offense shall be punished by a fine or imprisonment, the court imposing punishment may, in its discretion, select the kind of punishment to be imposed, and, if the punishment is fine or imprisonment, its amount or term within the limits prescribed by law.

Unless otherwise provided, every person now or hereafter sentenced to imprisonment shall be sentenced to and imprisoned in the adult correctional institutions.

Notes: Each year the justices of the superior court shall by majority vote, and with the approval of the supreme court, adopt as a rule of court presumptive sentences to be imposed upon defendants who have been found guilty after a trial. The rule shall establish a presumptive sentence or sentencing range for each category of felony which constituted more than five percent (5%) of the criminal caseload in the superior court during the preceding year and for any additional categories of felonies that the justices deem appropriate.

Unless otherwise provided, any criminal offense which at any given time may be punished by imprisonment for a term of more than one year, or by a fine of more than one thousand dollars (\$ 1,000), is declared to be a felony; any criminal offense which may be punishable by imprisonment for a term not exceeding one year, or by a fine of not more than one thousand dollars (\$ 1,000), or both, is declared to be a misdemeanor; any criminal offense which may be punishable by imprisonment for a term not exceeding six (6) months or by a fine of not more than five hundred dollars (\$ 500), or both, is declared to be a petty misdemeanor; and any offense which may be punished by only a fine of not more than five hundred dollars (\$ 500) is declared to be a violation.

R.I. Gen. Laws § 11-1-2

(a) Whenever it is provided that any offense shall be punished by a fine or imprisonment, the court imposing punishment may, in its discretion, select the kind of punishment to be imposed, and, if the punishment is fine or imprisonment, its amount or term within the limits prescribed by law; provided, if the punishment to be imposed is imprisonment, the sentence or sentences imposed shall be reduced by the number of days spent in confinement while awaiting trial and while awaiting sentencing; and provided, further, that in the case of a person sentenced to a life sentence, the time at which he or she shall become

eligible to apply for parole shall be reduced by the number of days spent in confinement while awaiting trial and while awaiting sentencing; and any sentence or sentences in effect at present, including the provision as to a life sentence as described in this subsection may be reduced in like manner by the court which imposed the sentence upon application by the person serving the sentence to the court.

(b) The court upon the sentencing of a first time offender, excluding capital offense and sex offense involving minors, may in appropriate cases sentence the person to a term of imprisonment, and allow the person to continue in his or her usual occupation or education and shall order the person to be confined in a minimum security facility at the A.C.I. during his or her nonworking or study hours.

R.I. Gen. Laws § 12-19-2

Each year the justices of the superior court shall by majority vote, and with the approval of the supreme court, adopt as a rule of court presumptive sentences to be imposed upon defendants who have been found guilty after a trial. The rule shall establish a presumptive sentence or sentencing range for each category of felony which constituted more than five percent (5%) of the criminal caseload in the superior court during the preceding year and for any additional categories of felonies that the justices deem appropriate. It shall also set forth the criteria for evaluation upon which the presumptive sentences are based. Prior to implementation, the rule shall be forwarded to the supreme court for its approval. A complete listing of the presumptive sentences so established shall be made public no less than thirty (30) days prior to implementation.

R.I. Gen. Laws § 12-19.3-2

SOUTH CAROLINA:

Felony Defined:

Lowest Level Felony: Class F

Sentence: Must be imprisoned for not more than 5 years

Where Served: A person convicted of an offense against this State and sentenced to imprisonment for more than three months is in the custody of the South Carolina Department of Corrections, and the department shall designate the place of confinement where the sentence must be served.

(A) A person convicted of classified offenses, must be imprisoned as follows: (1) for a Class A felony, not more than thirty years; (2) for a Class B felony, not more than twenty-five years; (3) for a Class C felony, not more than twenty years; (4) for a Class D felony, not more than fifteen years; (5) for a Class E felony, not more than ten years; (6) for a Class F felony, not more than five years; (7) for a Class A misdemeanor, not more than three years; (8) for a Class B misdemeanor, not more than two years; (9) for a Class C misdemeanor, not more than one year.

S.C. Code Ann. § 16-1-20

A person convicted of an offense against this State and sentenced to imprisonment for more than three months is in the custody of the South Carolina Department of Corrections, and the department shall designate the place of confinement where the sentence must be served.

S.C. Code Ann. § 24-3-20

SOUTH DAKOTA:

Felony Defined: Any crime is either a misdemeanor or a felony. A felony is a crime which is or may be punishable by imprisonment in the state penitentiary. Every other crime is a misdemeanor.

Lowest Level Felony: Class 6

Where Served: If a person is convicted of a Class 5 or Class 6 felony, the court may sentence the person so convicted to imprisonment in the county jail of the county where such person was convicted, for a term of not more than one year.

Notes: If a defendant has been convicted of one or two prior felonies under the laws of this state or any other state or the United States, in addition to the principal felony, the sentence for the principal felony shall be enhanced by changing the class of the principal felony to the next class which is more severe, but in no circumstance may the enhancement exceed the sentence for a Class C felony.

Any crime is either a felony or a misdemeanor. A felony is a crime which is or may be punishable by imprisonment in the state penitentiary. Every other crime is a misdemeanor.

S.D. Codified Laws § 22-1-4

(9) Class 6 felony: two years imprisonment in the state penitentiary or a fine of four thousand dollars, or both.

S.D. Codified Laws § 22-6-1

If a person is convicted of a Class 5 or Class 6 felony, the court may sentence the person so convicted to imprisonment in the county jail of the county where such person was convicted, for a term of not more than one year.

S.D. Codified Laws § 22-6-1.1

If a defendant has been convicted of one or two prior felonies under the laws of this state or any other state or the United States, in addition to the principal felony, the sentence for the principal felony shall be enhanced by changing the class of the principal felony to the next class which is more severe, but in no circumstance may the enhancement exceed the sentence for a Class C felony. The determination of whether a prior offense is a felony for purposes of this chapter shall be determined by whether the prior offense was a felony under the laws of this state or under the laws of the United States at the time of conviction of such prior offense. For the purpose of this section, if the principal felony is not classified it shall be enhanced to the class which has an equal maximum imprisonment. For the purposes of this section, if the maximum

imprisonment for the principal felony falls between two classifications, the principal felony shall be enhanced to the class which has the less severe maximum authorized imprisonment.

S.D. Codified Laws § 22-7-7

TENNESSEE:

Felony Defined: All violations of law that may be punished by one (1) year or more of confinement or by the infliction of the death penalty are denominated felonies, and all violations of law punishable by fine or confinement for less than one (1) year, or both, are denominated misdemeanors.

Lowest Level Felony: Class E

Sentence: 1 – 6 years

Where Served: In no case shall any person convicted of a felony be confined in the penitentiary for less than twelve (12) months. Whenever the minimum punishment is imprisonment in the penitentiary for one (1) year, but in the opinion of the jury the offense merits a lesser punishment, the jury may punish by confinement in the county jail or workhouse for any period less than twelve (12) months, except as otherwise provided.

Notes: Judges given advisory factors in deciding whether to enhance the penalty for an offender. Previous criminal history, and whether the offense was committed while on bail, probation, or parole are several factors.

Enhanced penalties for repeat offenders.

All violations of law that may be punished by one (1) year or more of confinement or by the infliction of the death penalty are denominated felonies, and all violations of law punishable by fine or confinement for less than one (1) year, or both, are denominated misdemeanors.

Tenn. Code Ann. § 39-11-110

(a) In no case shall any person convicted of a felony be confined in the penitentiary for less than twelve (12) months. Whenever the minimum punishment is imprisonment in the penitentiary for one (1) year, but in the opinion of the jury the offense merits a lesser punishment, the jury may punish by confinement in the county jail or workhouse for any period less than twelve (12) months, except as otherwise provided.

Tenn. Code Ann. § 40-20-103

(a) A multiple offender is a defendant who has received: (1) A minimum of two (2) but not more than four (4) prior felony convictions within the conviction class, a higher class, or within the next two (2) lower felony classes, where applicable; or (2) One (1) Class A prior felony conviction if the defendant's conviction offense is a Class A or B felony.

(b) In determining the number of prior convictions a defendant has received: (1) "Prior conviction" means a conviction for an offense occurring prior to the commission of the offense for which the defendant is being sentenced; (2) All prior felony convictions, including those occurring prior to November 1, 1989,

are included; (3) (A) A finding or adjudication that a defendant committed an act as a juvenile that would constitute a felony if committed by an adult and that resulted in a transfer of the juvenile to criminal court pursuant to § 37-1-134, or similar statutes of other states or jurisdictions, shall not be considered as a prior conviction for the purposes of this section unless the juvenile was convicted of a felony in a criminal court; (B) Notwithstanding subdivision (b)(3)(A), a finding or adjudication that a defendant committed an act as a juvenile that would constitute a Class A or Class B felony if committed by an adult shall be considered as a prior conviction for the purposes of this section, regardless of whether the juvenile was transferred to criminal court pursuant to § 37-1-134, or similar statutes of other states or jurisdictions; (4) Except for convictions for which the statutory elements include serious bodily injury, bodily injury, threatened serious bodily injury or threatened bodily injury to the victim or victims, or convictions for the offense of aggravated burglary under § 39-14-403, convictions for multiple felonies committed within the same twenty-four-hour period constitute one (1) conviction for the purpose of determining prior convictions; and (5) Prior convictions include convictions under the laws of any other state, government or country that, if committed in this state, would have constituted an offense cognizable by the laws of this state. In the event that a felony from a jurisdiction other than Tennessee is not a named felony in this state, the elements of the offense shall be used by the Tennessee court to determine what classification the offense is given.

(c) A defendant who is found by the court beyond a reasonable doubt to be a multiple offender shall receive a sentence within Range II.

(d) The finding that a defendant is or is not a multiple offender is appealable by either party.

Tenn. Code Ann. § 40-35-106

(b) The authorized terms of imprisonment and fines for felonies are:

(1) Class A felony, not less than fifteen (15) nor more than sixty (60) years. In addition, the jury may assess a fine not to exceed fifty thousand dollars (\$50,000), unless otherwise provided by statute;

(2) Class B felony, not less than eight (8) nor more than thirty (30) years. In addition, the jury may assess a fine not to exceed twenty-five thousand dollars (\$25,000), unless otherwise provided by statute;

(3) Class C felony, not less than three (3) years nor more than fifteen (15) years. In addition, the jury may assess a fine not to exceed ten thousand dollars (\$10,000), unless otherwise provided by statute;

(4) Class D felony, not less than two (2) years nor more than twelve (12) years. In addition, the jury may assess a fine not to exceed five thousand dollars (\$5,000), unless otherwise provided by statute; and

(5) Class E felony, not less than one (1) year nor more than six (6) years. In addition, the jury may assess a fine not to exceed three thousand dollars (\$3,000), unless otherwise provided by statute.

Tenn. Code Ann. § 40-35-111

(b) A Range II sentence is as follows: (1) For a Class A felony, not less than twenty-five (25) nor more than forty (40) years; (2) For a Class B felony, not less than twelve (12) nor more than twenty (20) years; (3) For a Class C felony, not less than six (6) nor more than ten (10) years; (4) For a Class D felony, not less than four (4) nor more than eight (8) years; and (5) For a Class E felony, not less than two (2) nor more than four (4) years.

Tenn. Code Ann. § 40-35-112

If appropriate for the offense and if not already an essential element of the offense, the court shall consider, but is not bound by, the following advisory factors in determining whether to enhance a defendant's sentence: (1) The defendant has a previous history of criminal convictions or criminal behavior, in addition to those necessary to establish the appropriate range;

(13) At the time the felony was committed, one (1) of the following classifications was applicable to the defendant: (A) Released on bail or pretrial release, if the defendant is ultimately convicted of the prior misdemeanor or felony; (B) Released on parole; (C) Released on probation; (D) On work release; (E) On community corrections; (F) On some form of judicially ordered release; (G) On any other type of release into the community under the direct or indirect supervision of any state or local governmental authority or a private entity contracting with the state or a local government; (H) On escape status; or (I) Incarcerated in any penal institution on a misdemeanor or felony charge or a misdemeanor or felony conviction;

Tenn. Code Ann. § 40-35-114

TEXAS:

Felony Defined: "Felony" means an offense so designated by law or punishable by death or confinement in a penitentiary.

Lowest Level Felony: State Jail Level Felony

Sentence: 180 days – 2 years

Where Served: Texas State Jail

Notes: Texas State Jails are jails operated, maintained, and managed by the Texas Department of Corrections.

(23) "Felony" means an offense so designated by law or punishable by death or confinement in a penitentiary.

Tex. Penal Code § 1.07

(31) "Misdemeanor" means an offense so designated by law or punishable by fine, by confinement in jail, or by both fine and confinement in jail.

Tex. Penal Code § 1.07

(a) Except as provided by Subsection (c), an individual adjudged guilty of a state jail felony shall be punished by confinement in a state jail for any term of not more than two years or less than 180 days.

(b) In addition to confinement, an individual adjudged guilty of a state jail felony may be punished by a fine not to exceed \$10,000.

(c) An individual adjudged guilty of a state jail felony shall be punished for a third degree felony if it is shown on the trial of the offense that: (1) a deadly weapon as defined by Section 1.07 was used or exhibited during the commission of the offense or during immediate flight following the commission of the offense, and that the individual used or exhibited the deadly weapon or was a party to the offense and knew that a deadly weapon would be used or exhibited; or (2) the individual has previously

been finally convicted of any felony: (A) under Section 20A.03 or 21.02 or listed in Article 42A.054(a), Code of Criminal Procedure; or (B) for which the judgment contains an affirmative finding under Article 42A.054 (c) or (d), Code of Criminal Procedure.

Tex. Penal Code § 12.35

UTAH:

Lowest Level Felony: Felony of the 3rd Degree

Sentence: Term not to exceed 5 years

Where Served: Felony commitments shall be to the Utah State Prison.

Notes: Whenever a person is convicted of a crime and the judgment provides for a commitment to the state prison, the court shall not fix a definite term of imprisonment unless otherwise provided by law. The sentence and judgment of imprisonment shall be for an indeterminate term of not less than the minimum and not to exceed the maximum term provided by law for the particular crime.

A person who has been convicted of a felony may be sentenced to imprisonment for an indeterminate term as follows:

- (1) In the case of a felony of the first degree, unless the statute provides otherwise, for a term of not less than five years and which may be for life.
- (2) In the case of a felony of the second degree, unless the statute provides otherwise, for a term of not less than one year nor more than 15 years.
- (3) In the case of a felony of the third degree, unless the statute provides otherwise, for a term not to exceed five years.

Utah Code Ann. § 76-3-203

- (1) Persons sentenced to imprisonment shall be committed to the following custodial authorities: (a) felony commitments shall be to the Utah State Prison;
- (b) (i) class A misdemeanor commitments shall be to the jail, or other facility designated by the town, city, or county where the defendant was convicted, unless the defendant is also serving a felony commitment at the Utah State Prison at the commencement of the class A misdemeanor conviction, in which case, the class A misdemeanor commitment shall be to the Utah State Prison for an indeterminate term not to exceed one year; and (ii) the court may not order the imprisonment of a defendant to the Utah State Prison for a fixed term or other term that is inconsistent with this section and Section 77-18-4; and
- (c) all other misdemeanor commitments shall be to the jail or other facility designated by the town, city or county where the defendant was convicted. (2) Custodial authorities may place a prisoner in a facility other

than the one to which the prisoner was committed when:(a) it does not have space to accommodate the prisoner; or (b) the security of the institution or inmate requires it.

Utah Code Ann. § 76-3-208

Whenever a person is convicted of a crime and the judgment provides for a commitment to the state prison, the court shall not fix a definite term of imprisonment unless otherwise provided by law. (2) The sentence and judgment of imprisonment shall be for an indeterminate term of not less than the minimum and not to exceed the maximum term provided by law for the particular crime.

Utah Code Ann. § 77-18-4

VERMONT:

Felony Defined: Any other provision of law notwithstanding any offense whose maximum term of imprisonment is more than two years, for life or which may be punished by death is a felony. Any other offense is a misdemeanor.

Lowest Level Felony:

Sentence: Penalty designated by offense.

Where Served: A court may order any of the following after considering the nature and circumstances of the crime, the history and character of the defendant, the need for treatment, and the risk to self, others, and the community at large presented by the defendant: A deferred sentence, referral to a community reparative board in the case of an offender who has pled guilty to a nonviolent felony, a nonviolent misdemeanor, or a misdemeanor that does not involve the subject areas prohibited for referral to a community justice center, probation, a supervised community sentence, a sentence of imprisonment.

§ 1. Felonies and misdemeanors defined

Any other provision of law notwithstanding any offense whose maximum term of imprisonment is more than two years, for life or which may be punished by death is a felony. Any other offense is a misdemeanor.

(Amended 1971, No. 199 (Adj. Sess.), § 1; 1973, No. 109, § 2, eff. 30 days from April 25, 1973.)

(a) In determining which of the following should be ordered, the court shall consider the nature and circumstances of the crime, the history and character of the defendant, the need for treatment, and the risk to self, others, and the community at large presented by the defendant:

(1) A deferred sentence pursuant to section 7041 of this title.

(2) Referral to a community reparative board pursuant to 28 V.S.A. chapter 12 in the case of an offender who has pled guilty to a nonviolent felony, a nonviolent misdemeanor, or a misdemeanor that does not involve the subject areas prohibited for referral to a community justice center under 24 V.S.A. § 1967. Referral to a community reparative board pursuant to this subdivision does not require the court to place the offender on probation. The offender shall return to court for further sentencing if the reparative board does

not accept the case or if the offender fails to complete the Reparative Board Program to the satisfaction of the board in a time deemed reasonable by the board.

(3) Probation pursuant to 28 V.S.A. § 205.

(4) Supervised community sentence pursuant to 28 V.S.A. § 352.

(5) Sentence of imprisonment.

13 V.S.A. § 7030 (Vermont)

VIRGINIA:

Felony Defined: Offenses are either felonies or misdemeanors. Such offenses as are punishable with death or confinement in a state correctional facility are felonies; all other offenses are misdemeanors.

Lowest Level Felony: Class 6

Sentence: 1 – 5 years OR in the discretion of the jury or the court trying the case without a jury, confinement in jail for not more than 12 months and a fine of not more than \$ 2,500, either or both.

Where Served: Imprisonment for conviction of a felony shall be by confinement in a state correctional facility, unless in Class 5 and Class 6 felonies the jury or court trying the case without a jury fixes the punishment at confinement in jail.

Offenses are either felonies or misdemeanors. Such offenses as are punishable with death or confinement in a state correctional facility are felonies; all other offenses are misdemeanors. Traffic infractions are violations of public order as defined in § 46.2-100 and not deemed to be criminal in nature.

Va. Code Ann. § 18.2-8

(f) For Class 6 felonies, a term of imprisonment of not less than one year nor more than five years, or in the discretion of the jury or the court trying the case without a jury, confinement in jail for not more than 12 months and a fine of not more than \$ 2,500, either or both.

Va. Code Ann. § 18.2-10

“Mandatory minimum” wherever it appears in this Code means, for purposes of imposing punishment upon a person convicted of a crime, that the court shall impose the entire term of confinement, the full amount of the fine and the complete requirement of community service prescribed by law. The court shall not suspend in full or in part any punishment described as mandatory minimum punishment.

Va. Code Ann. § 18.2-12.1

Imprisonment for conviction of a felony shall be by confinement in a state correctional facility, unless in Class 5 and Class 6 felonies the jury or court trying the case without a jury fixes the punishment at confinement in jail. Imprisonment for conviction of a misdemeanor shall be by confinement in jail.

Va. Code Ann. § 18.2-15

WASHINGTON:

Felony Defined: A crime is a felony if it is so designated in this title or by any other statute of this state or if persons convicted thereof may be sentenced to imprisonment for a term in excess of one year.

Lowest Level Felony: Class C

Sentence: Maximum of 5 years

Where Served: Any offender convicted of an offense punishable by imprisonment, except an offender sentenced to death, shall, notwithstanding any inconsistent provision of law, be sentenced to imprisonment in a penal institution under the jurisdiction of the department without designating the name of such institution, and be committed to the reception units for classification, confinement and placement in such correctional facility under the supervision of the department as the secretary shall deem appropriate.

(1) An offense defined by this title or by any other statute of this state, for which a sentence of imprisonment is authorized, constitutes a crime. Crimes are classified as felonies, gross misdemeanors, or misdemeanors.

(2) A crime is a felony if it is so designated in this title or by any other statute of this state or if persons convicted thereof may be sentenced to imprisonment for a term in excess of one year. A crime is a misdemeanor if it is so designated in this title or by any other statute of this state or if persons convicted thereof may be sentenced to imprisonment for no more than ninety days. Every other crime is a gross misdemeanor.

Rev. Code Wash. (ARCW) § 9A.04.040

(1) Felony. Unless a different maximum sentence for a classified felony is specifically established by a statute of this state, no person convicted of a classified felony shall be punished by confinement or fine exceeding the following:

(a) For a class A felony, by confinement in a state correctional institution for a term of life imprisonment, or by a fine in an amount fixed by the court of fifty thousand dollars, or by both such confinement and fine;

(b) For a class B felony, by confinement in a state correctional institution for a term of ten years, or by a fine in an amount fixed by the court of twenty thousand dollars, or by both such confinement and fine;

(c) For a class C felony, by confinement in a state correctional institution for five years, or by a fine in an amount fixed by the court of ten thousand dollars, or by both such confinement and fine.

(2) Gross misdemeanor. Every person convicted of a gross misdemeanor defined in Title 9A RCW shall be punished by imprisonment in the county jail for a maximum term fixed by the court of up to three hundred sixty-four days, or by a fine in an amount fixed by the court of not more than five thousand dollars, or by both such imprisonment and fine.

(3) Misdemeanor. Every person convicted of a misdemeanor defined in Title 9A RCW shall be punished by imprisonment in the county jail for a maximum term fixed by the court of not more than ninety days, or by a fine in an amount fixed by the court of not more than one thousand dollars, or by both such imprisonment and fine.

4) This section applies to only those crimes committed on or after July 1, 1984.

(5) The fines in this section apply to adult offenders only.

Rev. Code Wash. (ARCW) § 10.04.100

In every case where imprisonment in the penitentiary is awarded against any convict, the form of the sentence shall be, that he or she be punished by confinement at hard labor; and he or she may also be sentenced to solitary imprisonment for such term as the court shall direct, not exceeding twenty days at any one time; and in the execution of such punishment the solitary shall precede the punishment by hard labor, unless the court shall otherwise order.

Rev. Code Wash. (ARCW) § 10.64.060

Any offender convicted of an offense punishable by imprisonment, except an offender sentenced to death, shall, notwithstanding any inconsistent provision of law, be sentenced to imprisonment in a penal institution under the jurisdiction of the department without designating the name of such institution, and be committed to the reception units for classification, confinement and placement in such correctional facility under the supervision of the department as the secretary shall deem appropriate.

Rev. Code Wash. (ARCW) § 72.02.210

Nothing in this chapter shall be construed to restrict or impair the power of any court or judge having jurisdiction to pronounce sentence upon a person to whom this chapter applies, to fix the term of imprisonment and to order commitment, according to law, nor to deny the right of any such court or judge to sentence to imprisonment; nor to deny the right of any such court or judge to suspend sentence or the execution of judgment thereon or to make any other disposition of the case pursuant to law.

Rev. Code Wash. (ARCW) § 72.02.015

WEST VIRGINIA:

Felony Defined: Offenses are either felonies or misdemeanors. Such offenses as are punishable by confinement in the penitentiary are felonies; all other offenses are misdemeanors.

Lowest Level Felony

Sentence: Penalty designated by offense

Where Served: Every sentence to the penitentiary of a person convicted of a felony for which the maximum penalty prescribed by law is less than life imprisonment shall be a general sentence of imprisonment in the penitentiary.

Notes: Some offenses may allow a jail sentence. Enhanced penalties for repeat offenders. Third time probation violators may have probation revoked and their prison sentence imposed.

Offenses are either felonies or misdemeanors. Such offenses as are punishable by confinement in the penitentiary are felonies; all other offenses are misdemeanors.

The word “penitentiary” as used in this section shall mean and include any and all institutions provided by the State for the confinement of persons sentenced to confinement in the penitentiary, notwithstanding that transfers of such persons from any one of such institutions to another may be authorized.

W. Va. Code § 61-11-1

Every sentence to the penitentiary of a person convicted of a felony for which the maximum penalty prescribed by law is less than life imprisonment, except offenses committed by convicts in the penitentiary punishable under chapter sixty-two, article eight, section one [§ 62-8-1] of the code, shall be a general sentence of imprisonment in the penitentiary. In imposing this sentence, the judge may, however, designate a definite term, which designation may be considered by the Board of Probation and Parole [Division of Corrections] as the opinion of the judge under the facts and circumstances then appearing of the appropriate term recommended by him to be served by the person sentenced. Imprisonment under a general sentence shall not exceed the maximum term prescribed by law for the crime for which the prisoner was convicted, less such good time allowance as is provided by sections twenty-seven [§ 28-5-27] and twenty-seven-a [§ 28-5-27a, repealed], article five, chapter twenty-eight of this code, in the case of persons sentenced for a definite term. Every other sentence of imprisonment in the penitentiary shall be for a definite term or for life, as the court may determine. The term of imprisonment in jail, where that punishment is prescribed in the case of conviction for felony, shall be fixed by the court.

W. Va. Code § 61-11-16

(a) Except as provided by subsection (b) of this section, when any person is convicted of an offense and is subject to confinement in the state correctional facility therefor, and it is determined, as provided in section nineteen [§ 61-11-19] of this article, that such person had been before convicted in the United States of a crime punishable by confinement in a penitentiary, the court shall, if the sentence to be imposed is for a definite term of years, add five years to the time for which the person is or would be otherwise sentenced. Whenever in such case the court imposes an indeterminate sentence, the minimum term shall be twice the term of years otherwise provided for under such sentence.

W. Va. Code § 61-11-18

(a) If at any time during the period of probation there shall be reasonable cause to believe that the probationer has violated any of the conditions of his or her probation, the probation officer may arrest him or her with or without an order or warrant, or the court which placed him or her on probation, or the judge thereof in vacation, may issue an order for his or her arrest, whereupon he or she shall be brought before the court, or the judge thereof in vacation, for a prompt and summary hearing.(1) If the court or judge finds reasonable cause exists to believe that the probationer: (A) Absconded supervision; (B) Engaged in new criminal conduct other than a minor traffic violation or simple possession of a controlled substance;

or (C) Violated a special condition of probation designed either to protect the public or a victim; the court or judge may revoke the suspension of imposition or execution of sentence, impose sentence if none has been imposed and order that sentence be executed. (2) If the judge finds that reasonable cause exists to believe that the probationer violated any condition of supervision other than the conditions of probation set forth in subdivision (1) of this subsection then, for the first violation, the judge shall impose a period of confinement up to sixty days or, for the second violation, a period of confinement up to one hundred twenty days. For the third violation, the judge may revoke the suspension of imposition or execution of sentence, impose sentence if none has been imposed and order that sentence be executed, with credit for time spent in confinement under this section. (3) In computing the period for which the offender is to be confined, the time between his or her release on probation and his or her arrest may not be taken to be any part of the term of his or her sentence.

(b) A probationer confined for a first or second violation pursuant to subdivision (2), subsection (a) of this section may be confined in jail, and the costs of confining felony probationers shall be paid out of funds appropriated for the Division of Corrections. Whenever the court orders the incarceration of a probationer pursuant to the provisions of subdivision (2), subsection (a) of this section, a circuit clerk shall provide a copy of the order of confinement within five days to the Commissioner of Corrections.

(c) If, despite a violation of the conditions of probation, the court or judge is of the opinion that the interests of justice do not require that the probationer serve his or her sentence or a period of confinement, the judge may, except when the violation was the commission of a felony, again release him or her on probation: Provided , That a judge may otherwise depart from the sentence limitations set forth in subdivision (2), subsection (a) of this section upon making specific written findings of fact supporting the basis for the departure.

W. Va. Code § 62-12-10

WISCONSIN:

Felony Defined: A crime punishable by imprisonment in the Wisconsin state prisons is a felony. Every other crime is a misdemeanor.

Lowest Level Felony: Class I

Sentence: Maximum 3 years and 6 months

Where Served: If a statute authorizes imprisonment for its violation but does not prescribe the place of imprisonment, a sentence of less than one year shall be to the county jail, a sentence of more than one year shall be to the Wisconsin state prisons and the minimum under the indeterminate sentence law shall be one year, and a sentence of one year may be to either the Wisconsin state prisons or the county jail.

Notes: Enhanced penalty for repeat offenders.

(1) Felonies in the statutes are classified as follows: (a) Class A felony. (b) Class B felony. (c) Class C felony. (d) Class D felony. (e) Class E felony. (f) Class F felony. (g) Class G felony. (h) Class H felony. (i) Class I felony.

(2) A felony is a Class A, B, C, D, E, F, G, H, or I felony when it is so specified in the statutes.

(3) Penalties for felonies are as follows: (a) For a Class A felony, life imprisonment. (b) For a Class B felony, imprisonment not to exceed 60 years. (c) For a Class C felony, a fine not to exceed \$100,000 or imprisonment not to exceed 40 years, or both. (d) For a Class D felony, a fine not to exceed \$100,000 or imprisonment not to exceed 25 years, or both. (e) For a Class E felony, a fine not to exceed \$50,000 or imprisonment not to exceed 15 years, or both. (f) For a Class F felony, a fine not to exceed \$25,000 or imprisonment not to exceed 12 years and 6 months, or both. (g) For a Class G felony, a fine not to exceed \$25,000 or imprisonment not to exceed 10 years, or both. (h) For a Class H felony, a fine not to exceed \$10,000 or imprisonment not to exceed 6 years, or both. (i) For a Class I felony, a fine not to exceed \$10,000 or imprisonment not to exceed 3 years and 6 months, or both.

Wis. Stat. § 939.50

A crime punishable by imprisonment in the Wisconsin state prisons is a felony. Every other crime is a misdemeanor.

Wis. Stat. § 939.60

(1) If the actor is a repeater, as that term is defined in sub. (2), and the present conviction is for any crime for which imprisonment may be imposed, except for an escape under s. 946.42 or a failure to report under s. 946.425, the maximum term of imprisonment prescribed by law for that crime may be increased as follows: (a) A maximum term of imprisonment of one year or less may be increased to not more than 2 years. (b) A maximum term of imprisonment of more than one year but not more than 10 years may be increased by not more than 2 years if the prior convictions were for misdemeanors and by not more than 4 years if the prior conviction was for a felony. (c) A maximum term of imprisonment of more than 10 years may be increased by not more than 2 years if the prior convictions were for misdemeanors and by not more than 6 years if the prior conviction was for a felony.

(2) The actor is a repeater if the actor was convicted of a felony during the 5-year period immediately preceding the commission of the crime for which the actor presently is being sentenced, or if the actor was convicted of a misdemeanor on 3 separate occasions during that same period, which convictions remain of record and unreversed. It is immaterial that sentence was stayed, withheld or suspended, or that the actor was pardoned, unless such pardon was granted on the ground of innocence. In computing the preceding 5-year period, time which the actor spent in actual confinement serving a criminal sentence shall be excluded.

Wis. Stat. § 939.62

Except as provided in s. 973.032, if a statute authorizes imprisonment for its violation but does not prescribe the place of imprisonment, a sentence of less than one year shall be to the county jail, a sentence of more than one year shall be to the Wisconsin state prisons and the minimum under the indeterminate sentence law shall be one year, and a sentence of one year may be to either the Wisconsin state prisons or the county jail. In any proper case, sentence and commitment may be to the department or any house of correction or other institution as provided by law or to detention under s. 973.03 (4).

Wis. Stat. § 973.02

(1) Except as provided in s. 973.032, all sentences to the Wisconsin state prisons shall be for one year or more. Except as otherwise provided in this section, all sentences commence at noon on the day of sentence, but time which elapses after sentence while the convicted offender is at large on bail shall not be computed as any part of the term of imprisonment.

Wis. Stat. § 973.15

WYOMING:

Felony Defined: Crimes which may be punished by death or by imprisonment for more than one (1) year are felonies. All other crimes are misdemeanors.

Lowest Level Felony:

Sentence: Penalty designated by offense

Where Served: Unless otherwise specifically provided by statute, any person convicted of a felony and sentenced to a term of imprisonment shall be sentenced to the custody and control of the department of corrections to be incarcerated in a state penal institution or other facility under contract or agreement with the department.

Notes: For a violation of a condition of probation occurring during the probationary period, revocation proceedings may be commenced at any time during the period of suspension of sentence or probation, or within thirty (30) days thereafter, in which case the court may issue a warrant and cause the defendant to be arrested. If after hearing the court determines that the defendant violated any of the terms of probation or suspension of sentence, the court may proceed to deal with the case as if no suspension of sentence or probation had been ordered.

Crimes which may be punished by death or by imprisonment for more than one (1) year are felonies. All other crimes are misdemeanors.

Wyo. Stat. § 6-10-101

The minimum term of imprisonment in any state penal institution is not less than one (1) year.

Wyo. Stat. § 6-10-107

Within the limits prescribed by law, and subject to W.S. 7-13-108, the court shall determine and fix the punishment for any felony or misdemeanor, whether the punishment consists of imprisonment, or fine, or both.

Wyo. Stat. § 6-10-104

(a) Unless otherwise specifically provided by statute, any person convicted of a felony and sentenced to a term of imprisonment shall be sentenced to the custody and control of the department of corrections to be incarcerated in a state penal institution or other facility under contract or agreement with the department

pursuant to W.S. 25-1-105(e), as directed by the department. (b) Any contract entered into under W.S. 25-1-105(e) shall be approved as to form and content by the Wyoming attorney general.

Wyo. Stat. § 7-13-108

Except where a term of life is required by law, or as otherwise provided by W.S. 7-13-101, when a person is sentenced for the commission of a felony, the court imposing the sentence shall not fix a definite term of imprisonment but shall establish a maximum and minimum term within the limits authorized for the statute violated. The maximum term shall not be greater than the maximum provided by law for the statute violated, and the minimum term shall not be less than the minimum provided by law for the statute violated, nor greater than ninety percent (90%) of the maximum term imposed.

Wyo. Stat. § 7-13-201

(a) The period of probation or suspension of sentence under W.S. 7-13-302 shall be determined by the court and may be continued or extended. (b) Upon the satisfactory fulfillment of the conditions of suspension of sentence or probation under W.S. 7-13-302 the court shall enter an order discharging the defendant. (c) For a violation of a condition of probation occurring during the probationary period, revocation proceedings may be commenced at any time during the period of suspension of sentence or probation under W.S. 7-13-302, or within thirty (30) days thereafter, in which case the court may issue a warrant and cause the defendant to be arrested. If after hearing the court determines that the defendant violated any of the terms of probation or suspension of sentence, the court may proceed to deal with the case as if no suspension of sentence or probation had been ordered.

Wyo. Stat. § 7-13-305

Published May 2017





OHIO

CRIMINAL SENTENCING COMMISSION

65 SOUTH FRONT STREET, 5TH FLOOR, COLUMBUS, OHIO 43215-3431

sc.ohio.gov/Boards/Sentencing • 614.387.9305