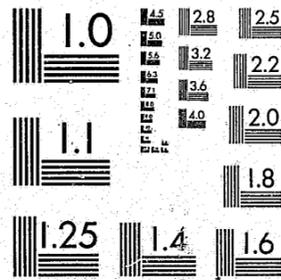


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A Survey of
MANDATORY SENTENCING
IN THE U.S.

A Summary and Brief Analysis of
Mandatory Sentencing Practices
in the United States

Prepared By
Criminal Justice Statistics Division
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characteristics or features of mandatory sentencing schemes that were believed to be of most interest and utility in considering changes in Pennsylvania's statutes.

In nearly every case the director of the state's Statistical Analysis Center was contacted; and for many states one or more other offices were contacted including the administrative office of the courts, the state planning agency (under the Law Enforcement Assistance program), the state department of corrections, and the state probation and parole board. In many instances copies of pertinent sections of criminal codes or enacted legislation were sent to us. Where significant ambiguity or doubt existed regarding information obtained, an effort was made to corroborate or clarify the information by contacting another state official.

C. Analysis of Mandatory Sentencing Characteristics

1. Present sentencing type

States included in the report were classified first by recognizing whether any offenses on first or subsequent conviction carried a mandatory prison sentence, and second by the underlying type of sentencing for mandatory and non-mandatory situations. Mandatory sentencing for certain crimes can be overlaid upon any type of sentencing and is thus a separate element or variable. For this report we have adopted the following definition:

Mandatory Minimum Sentence: The minimum incarceration sentence that must be given by a judge or jury on conviction, without an option for probation, suspended sentence, or immediate parole eligibility.

Four basic types of sentencing schemes are defined below for non-mandatory minimum sentencing. Laws regarding mandatory minimums provide some exceptions for certain offenses, but the overall type or structure is generally unchanged.

Determinate: Incarceration sentences are given with a fixed (flat) length of time. Time served may be subject to "good time" or parole; and probation and suspension may be options. Legislation specifies a maximum or a range of sentences.

Presumptive Determinate: As above, but legislation suggests a definite term with leeway up or down in the event of aggravating or mitigating circumstances.

Guidelines - generally a form of presumptive with a grid to specify the sentence or a range for the determinate sentence.

Indeterminate: Incarceration sentences are given with a minimum and a maximum. Good time and parole may be available to reduce either the minimum or maximum or both. Legislation may specify a range or a maximum for the sentence.

A. Purpose and Nature of this Report

This report is intended to provide background information on the nature and extent of mandatory sentencing of criminal offenders across the United States for use by Pennsylvania governmental officials as they develop and consider proposals for such sentencing. Mandatory (or mandatory minimum) sentencing is defined for purposes of this report as a statutory requirement that persons found guilty of any number of specific offenses must serve an amount of time in prison -- the exact amount of time served being determined by a combination of the mandatory minimum sentence and any allowable early release for good behavior, etc.

Sections of this report include information on: when mandatory sentencing was instituted, the underlying type of sentencing, the offenses included and their respective minimum sentences, the effect of "good time" provisions on time served, other possibilities for early release on parole, and whether there is parole supervision. Included also are reports on several states with guidelines or other interesting schemes but without mandatory prison sentences. It should be noted that every attempt has been made to exclude from the list of states with mandatory sentencing those which permit probation, a suspended sentence, or conditional release. Some states use the word "mandatory" when the mandate applies only after a decision to incarcerate. Another exclusion from the study is first degree murder since this offense typically carries its own special sentencing provisions (generally a choice between death or life imprisonment). Since sentencing for first degree murder was not considered an issue in Pennsylvania, it was decided that the time required to research and present these special provisions would not be warranted.

This report presents the information in several ways which hopefully make it a flexible reference tool. Section "C" summarizes each of several features of mandatory sentencing across all of the states; and section "D" describes each state's system in terms of those features, including a capsule grid summary with rows and columns for each state and feature respectively -- with page references to the states and feature descriptions. While the report seeks to categorize and summarize information common among the states, it contains also summary information on unique innovations found in some states in order to help give the reader a better appreciation of the great variety of approaches to mandatory sentencing.

B. Survey Methods

Staff of the Statistical Analysis Center began by identifying states that were reported to have some form of mandatory sentencing. This was achieved through two sources: the November, 1980 Uniform Parole Report prepared by the National Council on Crime and Delinquency, which contains a table showing enactment of mandatory sentencing by state; and a draft report by Sharon Larson and the American University tentatively titled "State Sentencing Schemes: An Attempt At Classification" (May, 1981).

If either report indicated some mandatory sentencing provisions, staff contacted by telephone and interviewed various state personnel regarding mandatory sentencing provisions and other information contained in this report. The information requested was based on an earlier determination of the

Of the 35 states selected for inclusion in the study, 32 have mandatory minimum statutes. Based on our survey and other secondary sources (see the "Survey Methods" section) we believe the remaining 18 states (including Pennsylvania) have no mandatory sentencing.

a. Region and Population. The presence or absence of mandatory sentencing seems primarily unrelated to either geographic region or population size. In the Northeast, 5 of 9 states have mandatory provisions; in the North Central region the ratio is 8 of 12; in the South 12 of 16; and in the West 7 of 13. Mandatory sentencing is only slightly more prevalent proportionately among North Central and Southern states (2/3 and 3/4 respectively) than among Northeastern and Western states (which are close to 1/2 with mandatory minimums).

With respect to population there is also no significant relationship to mandatory sentencing. Of the 6 states (including Pennsylvania) with over 10 million population, 4 have mandatory sentencing; and of the 9 states over 7 million, 6 have mandatory sentencing. Dividing the 50 states into thirds by population, we find 12 of the 17 most populous states (over 4,300,000) have mandatory sentencing; 11 of the 16 mid-size states (2,000,000 to 4,300,000); and 9 of the 17 least populous states. Only among the smallest third is mandatory sentencing slightly less popular.

b. Date of Enactment. Mandatory minimum sentencing legislation is a very recent phenomenon. With the exception of Washington state, which started in 1909, and three states which first enacted mandatory sentencing in the early 1970's, mandatory sentencing came into being during 1975 and later. North Carolina enacted their first such laws this year (1981), while Arkansas and Idaho have just added to prior mandatory terms.

c. General Type of Sentencing. Using the definitions presented above, of the 32 mandatory sentencing states, 10 have indeterminate sentencing, 15 have determinate sentencing, 5 have a presumptive determinate system, and one (Maryland) has guidelines which are being pilot tested in some areas while the rest of the state's sentencing is determinate. In addition, one state (Tennessee) has a combination of indeterminate sentencing for some offenses and determinate for others (mostly those with mandatory sentences). The three states in this report without mandatory minimums are Maine, with determinate sentencing; California, with presumptive determinate; and Minnesota, with guidelines.

Given the widespread popularity of indeterminate sentencing in the recent past, it is interesting to note that 22 of the 32 mandatory sentencing states have, or are experimenting with other more definite sentencing schemes. This fact is consistent, though, with the fact that a required prison sentence is, in a way, a very definite or pre-determined approach to sentencing.

d. Variations. Some states have interesting variations on the basic sentencing type. Alaska, which is classified here as "determinate", has specified presumptive terms for only some offenses including repeat felonies. Mandatory sentencing is also a mix between presumptive and straight determinate.

In California, which has a presumptive determinate scheme, the legislatively prescribed upper and lower sentences are not limits to a range above and below the presumptive term but are actual sentences -- the judge must choose among the three possible terms.

Delaware includes mandatory prison sentences for juveniles over the age of 16, who can be tried as adults if they are charged with possession of a deadly weapon during the commission of a felony.

The Commissioner of Corrections in Connecticut may seek bond or sentence reductions for some inmates when faced with unsafe correctional conditions.

2. Prior Sentencing Type and Recent Changes

Changes bringing about mandatory minimum prison sentences for one or more offenses typically were the result of legislation that simply added to the existing sentencing scheme. In some cases, however, the legislature included mandatory sentencing within a larger change to a whole new structure for sentencing discretion -- usually from indeterminate (as Pennsylvania now has) to determinate or presumptive determinate. Eleven (11) states added mandatory sentencing to an existing indeterminate system and 11 added to a determinate system without major changes. Seven (7) of the currently determinate states, however, were formerly indeterminate (including one state that still has indeterminate sentencing for non-mandatory sentences). All of the 6 states that now have presumptive determinate sentencing changed from indeterminate schemes during the last 5 years. The state we examined that has fully implemented guidelines formerly had determinate sentencing, while the state which is experimenting with guidelines may change from its current determinate scheme. All 10 of those states with mandatory sentencing overlaid on an indeterminate system were formerly indeterminate -- none changed from any form of determinate or guideline sentencing to indeterminate.

While most states without mandatory provisions have not been surveyed for this report, we can conclude that among states with mandatory sentencing, any recent shifts in the underlying sentencing scheme have been toward a more structured definite approach and away from the indeterminate approach.

3. Offenses with Mandatory Sentencing

Offenses requiring an incarceration sentence are sometimes written into law as relatively specific offenses (such as armed robbery or drug trafficking), as classes of offenses (such as felonies or violent felonies), or as the presence of a specific element of an offense (such as possession or use of a weapon or firearm, or serious injury to the victim) coupled with a specific offense (as possession of a handgun in the commission of a sexual assault) or with a class of offenses. Illinois and Tennessee have created a special "Class X" for many of their mandatory sentencing offenses.

An offense or class may carry the same mandatory minimum for the first offense and all subsequent offenses or it may escalate to one or more higher levels for second and subsequent convictions. Or, mandatory provisions may only apply when there are a certain number of prior convictions for the same offense or the same class (usually within the past 10 years). These often are the

"habitual", "career", or "persistent" offender statutes which also may be written either for a specific offense or a class. Some states require one, some two, and some three prior convictions; and some escalate with further repetitions and some do not.

Information on the number of states with mandatory minimums for each offense, offense group, and type of weapons element, is contained in Table 1 below. Note that some state laws deal with felonies as a class, and other laws (often in the same state) deal with specific offenses, including some that are felonies. A given offense, therefore, could be covered in one or several ways. For a rather comprehensive example of how to use the table, let us suppose the reader wished to know how many (and which) states have one or more mandatory sentencing laws that apply to armed robbery. The section on robbery indicates that 13 states have statutes that specify "armed robbery", "robbery in the first degree" or just "robbery". The sub-headings show that eleven (11) have laws dealing with either armed or first-degree robbery, while 3 have laws that apply to "robbery". These do not add to 13 because of one state, NY, specifically addresses both offenses. States of IA and MD have laws on "robbery" and do not address armed robbery specifically; however, since armed robbery is a kind of robbery, presumably the laws apply. Thus states in either sub-listing include armed robbery -- the 13 opposite "Robbery-any listing." Some additional states may also address felonies as a class without specifying (or without the researchers having ready access to) which offenses are included. Since it is safe to assume that armed robbery is a felony in every state; the reader should look at the states opposite "Felony" to see how many are not already listed under "robbery". Doing this yields an additional 9 states (AL AK AZ CT IN MO NV OK WA) for a total of 22 states. Then, since a weapon is involved, it is necessary to check for additional states with mandatory statutes addressing weapons. Since armed robbery would not fit into several of the listed weapons offenses, one cannot use the all-inclusive group "Weapons: any kind or offense" but must look at the states opposite the following individual listings: "Handgun in Felony or violent crime", "Firearm in felony", "Firearm in crime", "Firearm Possession", "Deadly Weapon in a felony", "Deadly Weapon in a Crime" or "Weapon in a Crime". A check of these states reveals that an additional 10 states have statutes regarding possession or use of a weapon, for a total of 32. Thus all states with mandatory sentencing cover armed robbery in one or more ways.

The minimum for possession or use of a weapon of some kind in an offense is sometimes treated as an enhancement to the sentence for the offense itself (which typically does not carry a mandatory minimum) and is sometimes a minimum for the total sentence. Mandatory enhancements must usually be served first, though in one state it is served after the sentence for the offense -- which could be probation.

Information obtained on the lengths of mandatory minimum sentences does not lend itself to meaningful summarization given the variation among states in definitions of offenses and categories, and the variation in how the minimum time actually to be served in prison is related to the mandatory minimum sentence. For this information, please see the individual State Summary Descriptions.

TABLE 1: STATES WITH MANDATORY SENTENCING BY OFFENSE OR OFFENSE CLASS AND PRIOR CONVICTION REQUIREMENT

Offenses	Total	States ¹	No Prior Convictions Required		One or More Convictions Required	
			No Escalation for Repeats	Minimum Escalation for Repeats	Same Minimum for Subsequent	Escalates for Subsequent
FELONY (law treats as a class)²	16	AL AK AZ CT DE IL IN IA MS MO NV NY OK TN TX WA		1: NY	12: AL AZ CT DE IL IN IA MS MO OK TN TX	3: AK NV WA
WEAPONS POSSESSION OR USE IN THE COMMISSION OF A CRIME OR CRIME CLASS³						
WEAPONS: Any kind or offense	24	AK AZ AR CT DE ID IN KS MO MA MI MN MD MT NV NH NJ NM NY NC ND TN WA WV				
Handgun in felony or viol. crime	1	MD		1: MD		
Firearm: in felony	13	AK AZ ID IA KS MT NH NM NC ND TN WA WV	7: AK AZ IA KS NH ND WV	5: ID MT NM TN WA	1: NC	
in crime	4	MI NV NJ NY	1: NV	3: MI NJ NY		
in sexual assault	1	CT	1: CT			
in ass't on senior cit.	1	CT	1: CT			
possession	2	MA NY	1: MA	1: NY		
Deadly weapon: in felony	2	AR DE	2: AR DE			
in crime	1	MN		1: MN		
with violence	1	IL	1: IL			
Weapon in crime	3	IN MD NY	1: IN	2: MD NY		
MURDER⁴/VOL MANSLAUGHTER: Any listing	9	AK DE IA MD MN NV NY SC TN				
Murder - 2nd. degree	9	AK DE IA MD MN NV NY SC TN	6: AK DE MN NV SC TN	2: IA NY		1: MD
Attempted murder	4	DE MD NY TN	2: DE TN	1: NY		1: MD
Voluntary Manslaughter	2	MD NY		1: NY		1: MD
VIOLENT SEX OFFENSES - Any listing	13	DE ID IL IA KS MD NV NJ NY OH TN TX WA				
Rape	11	DE ID IL IA KS MD NY OH TN TX WA	5: DE KS TN TX WA	3: IL IA NY	1: OH	2: ID MD
Sexual Assault or Abuse	9	ID IL IA MD NV NJ NY TN TX	3: NV TN TX	3: IL IA NY	1: NJ	2: ID MD
Aggravated Sodomy	2	KS NY	1: KS	1: NY		

¹Standard postal abbreviations:

AK - Alaska CT - Connecticut IL - Illinois ME - Maine MT - Montana NM - New Mexico SC - South Carolina
 AL - Alabama DE - Delaware IN - Indiana MI - Michigan NC - North Carolina NV - Nevada TN - Tennessee
 AZ - Arizona GA - Georgia KS - Kansas MN - Minnesota ND - North Dakota NY - New York TX - Texas
 AR - Arkansas IA - Iowa MA - Massachusetts MO - Missouri NH - New Hampshire OH - Ohio WA - Washington
 CA - California ID - Idaho MD - Maryland MS - Mississippi NJ - New Jersey OK - Oklahoma WV - West Virginia

²States included here if the law has one or more provisions for felonies as a class without listing specific offenses. Other laws in the same state may single out specific offenses (including felonies) for different mandatory terms.

³Does not include offenses listed individually below where weapon is an element of the offense (e.g. armed robbery not listed here).

⁴Not necessarily including murder, first degree.

TABLE 1: STATES WITH MANDATORY SENTENCING BY OFFENSE OR OFFENSE CLASS AND PRIOR CONVICTION REQUIREMENT (Continued)

Offenses	Total	States ¹	No Prior Convictions Required		One or More Convictions Required	
			No Escalation for Repeats	Minimum Escalation for Repeats	Same Minimum for Subsequent	Escalates for Subsequent
ROBBERY - Any listing	3	AR DE GA IL IA MD MI MS NY NC SC TN TX				
Armed Robbery/Robbery 1st deg.	11	AR DE GA IL MI MS NY NC SC TN TX	7: GA MI MS NC SC TN TX	2: IL NY	2: AR DE	
Robbery	3	IA MD NY		2: IA NY		1: MD
ASSAULT - Any listing	6	CT DE IL IA MD NY				
Aggr. Ass'lt/Ass'lt 1st deg./ Heinous Battery	5	CT IL IA MD NY	2: CT IL	2: IA NY		1: MD
Aggr. Ass'lt on Peace Officer	1	NY		1: NY		
Assault in Detention Facility	1	DE	1: DE			
Assault on Senior Citizen	1	CT	1: CT			
Assault from Ambush	1	TN	1: TN			
Assault	1	NY		1: NY		
BURGLARY - Any listing	6	CT GA IL IA NY NC				
Burglary - 1st degree	5	CT IL IA NY NC	3: CT IL NC	2: IA NY		
Burglary 2nd deg. or Unspecif.	2	GA NY		1: NY	1: GA	
NARCOTICS - Any listing	8	DE GA IL IA MA OH SC TN				
Manufacture or Deliver	5	DE IL IA SC TN	4: DE IL IA TN			1: SC
Distribute or Trafficking	6	DE GA MA OH SC TN	4: DE GA MA TN	1: OH	1: SC	
Non-Narcotics to Under 18	1	DE	1: DE			
OTHER OFFENSES						
Arson	5	IL IA MD NY TN	1: TN	3: IL IA NY		1: MD
Kidnapping or Abduction	10	AK DE ID IL IA MD NV NY TN TX	5: AK DE NV TN TX	3: IL IA NY		2: ID MD
Auto Theft	1	MA			1: MA	
Treason	2	IL MI	1: MI	1: IL		
Extortion	1	ID				1: ID
Terrorism	1	IL	1: IL			
Bomb Threat	1	SC			1: SC	
Mayhem	1	MD				1: MD
Explosives with Injury	1	TN	1: TN			
Bodily Injury - and offense	2	ID IN	2: ID IN			
Obscenity involving under 18	1	DE	1: DE			
Sexual Exploitation of Child	1	DE			1: DE	
Theft of Livestock	1	DE	1: DE			

¹Standard postal abbreviations:

AK - Alaska	CT - Connecticut	IL - Illinois	ME - Maine	MT - Montana	NM - New Mexico	SC - South Carolina
AL - Alabama	DE - Delaware	IN - Indiana	MI - Michigan	NC - North Carolina	NV - Nevada	TN - Tennessee
AZ - Arizona	GA - Georgia	KS - Kansas	MN - Minnesota	ND - North Dakota	NY - New York	TX - Texas
AR - Arkansas	IA - Iowa	MA - Massachusetts	MO - Missouri	NH - New Hampshire	OH - Ohio	WA - Washington
CA - California	ID - Idaho	MD - Maryland	MS - Mississippi	NJ - New Jersey	OK - Oklahoma	WV - West Virginia

4. Reductions to Mandatory Sentences

Minimum sentences, including mandatory ones, are subject to reduction in many states. The survey has revealed that among the 32 states with mandatory minimum sentencing, 23 allow reductions for all mandatory offenses, and 3 allow them for some mandatory offenses, while only 6 require that the entire sentence be served in all cases. Early release can be with the aid of a "good time" formula and other specific, earned credits against the sentence; or the paroling authority may have general release discretion on mandatory sentences subject only to legal restrictions.

An examination of the 26 states which permit sentence reductions reveals that 13 permit only "good time", 7 have "good time" formulas but permit parole release prior to serving the minimum less "good time", and 6 states permit parole release but have no "good time" credits.

a. "Good Time". The term "good time" means time off of one's sentence for good behavior. As used in this report the term means a formula by which a prisoner earns a certain amount of time off his sentence (maximum, minimum, or both) as a result of a specified period of time served with good behavior. It does not apply to a less structured situation in which the paroling authority considers good behavior among other factors when deciding upon release. In some states when time served plus "good time" equals the sentence given, release is automatic; while in others "good time" hastens parole eligibility.

Eight (8) of the 20 states with "good time" have a fixed formula; but the remaining 12 have a variable formula which is most often a function of total time served -- the more total time served, the greater is the time earned for a given period served. Three (3) of the 12 variable state formulas, however, (Arizona, Arkansas, and Georgia) vary according to the class of the offense committed, whether it was a mandatory minimum sentence, or how "good" the behavior is as judged by corrections officials.

In addition to "good time", 7 states allow prisoners to earn additional credits for participation in work programs, training programs, etc. according to a formula. One additional state, however, deducts from "good time" for failure to participate in programs. Of the 7 states which add credits, 6 also have "good time" credits for some or all mandatory sentences. Only 1 state, Oklahoma, has work time only.

b. Early Parole Release. In 13 states with mandatory sentencing it is possible for the paroling authority to grant release before the minimum is served (less good-time credits). In 6 of the 13 states it is the only form of early release, and in the other 7 it is in combination with "good time" formulas. A few states permit early release at any time as a "safety valve" against overcrowding, even though it is seldom used. In some others parole eligibility begins when a fixed fraction of the minimum sentence has been served -- whether sufficient good-time credits have been earned or not. In two states, North Dakota and Washington, the parole authority determines the minimum sentence after the judge has established a maximum. In North Dakota this is done with the aid of guidelines. Arkansas has the unusual provision that the fraction of the sentence to be served before parole eligibility increases for second and third convictions -- whether the sentence

was mandatory or not. In Kansas, repeat felonies as a group are not covered by mandatory sentencing. However, if sentenced to prison, offenders are ineligible for release before serving the full minimum, while others with non-mandatory sentences may earn "good time".

5. Parole Supervision

Laws and policies on supervision after release do not seem to be different for prisoners serving mandatory sentences compared with those serving other sentences. Thirty-one (31) of the 32 mandatory sentencing states have post-release supervision -- some for a period of time specified by law, some for a period with legally imposed maximums or minimums, and some for any period of time up to the expiration of the maximum sentence at the discretion of the parole authority. Connecticut is the only state without supervision.

6. Plea Bargaining

When considering proposals for making sentencing schemes more highly structured, including the addition of mandatory prison terms, it is frequently recognized that prosecutors may accept guilty pleas to lesser offenses that do not have mandatory sentences. Very few states seem to address this issue in any direct way. In California, which has presumptive determinate sentencing, if a prosecutor accepts a sentence other than the presumptive term, evidence justifying the reduction must be provided for the record. In New York, if an indictment charges a violent felony offense (which carries a mandatory minimum term), the charges on which a plea is accepted must include a violent felony offense. Thus the prosecutor might bargain to an offense with a lesser sentence, but he can't accept a plea that would avoid incarceration.

7. Parole and the Transition to a New System

Changes from one kind of sentencing to another has resulted in changes in, or elimination of, the parole function in several states and has created a situation with two kinds of prisoners sentenced under the two systems. In a change from indeterminate to mandatory/determinate, Connecticut's parole board will cease to have release powers after those sentenced under the old laws have left the system. Illinois, in a similar change, abolished the parole board and replaced it with the Prison Review Board. Minnesota changed to guideline sentencing from determinate sentencing in July, 1980 and is allowing its parole board to deal with those having old sentences until July, 1982, when the Board will be abolished.

California handled the change to presumptive determinate sentencing differently with respect to old sentences. The Board of Prison Terms reviewed the facts proven during conviction and set a new maximum term for each existing prisoner under the new laws. The new release date was then compared with the date set under the old laws, and prisoners were released on the earlier of the two dates.

D. State Summary Descriptions

This section contains a state-by-state summary of those with mandatory minimum sentencing and some with various forms of determinate or guideline sentencing. Table 2 presents a highly abbreviated summary of the major characteristics of each state and includes page numbers where the full summaries can be found. The following notes apply primarily to the sections found in each of the full state summaries.

Present Sentencing Type. The heading on this section includes the classification or type according to the definitions on page 2. Where mandatory is overlaid on the type for some offenses, "Mandatory/" precedes the basic type. Variations on the basic type are highlighted, and where the type is relatively new, the date of the change and the former type has been included where available.

Mandatory Sentencing. Each state with mandatory sentencing has a table showing the offenses or classes requiring mandatory minimum sentences.

The second column indicates the number of prior convictions required before the law applies. Typically prior convictions must be of the same class or a more serious class and must have occurred within 10 years of the instant offense.

The column showing length of time is the sentence time, and not necessarily the time to be served. The next column indicates whether "good time" or other laws regarding parole permit a reduction to the minimum for time actually served. If "yes", see the sections below for the kinds of reduction possible.

"Good Time": The formula is shown, where applicable, and whether it applies to mandatory minimum sentences. "Work time" and other credits are also indicated.

Parole Provisions: This section indicates when parole release eligibility begins, whether there is post-release supervision, and other special features. In some cases, information is presented on the role of the parole authority in the transition to a new sentencing system.

(Table 2 indicates only whether a body with release authority has the power to release prior to serving the mandatory minimum (minus "good time", where applicable). In some states the parole authority must also make release decisions after the determinate sentence or minimum sentence (minus "good time") has been served, but this is not indicated here.)

TABLE 2: CAPSULE DESCRIPTIONS OF STATE SENTENCING*

State	Present Type - p.2	Former Type-p.4	Mandatory Offenses - p.4	Possible Release Before Serving Mandatory Minimum - p. 8	
				"Good Time" Reduction	Other Early Release Provisions?
Alabama p.13	Mandatory/Determinate	Indeterminate	Repeat felons	2 days/1 day served plus 2/3 of sentence	No
Alaska p. 14	Mandatory/Determinate (some Presumptive)	Determinate	Murder, Kidnapping Firearms, Repeat felons	1 day/3 days served	Yes
Arizona p.15	Mandatory/Presumptive Determinate	Indeterminate	Firearms, Prior felony convictions	1 day/2 or 3 days served	Yes
Arkansas p.17	Mandatory/Determinate	Determinate	Robbery, deadly weapons	0-10 days/month served	No
California p. 18	Presumptive Determinate for felonies Indeterminate for misdemeanors	Indeterminate		Not applicable	Not Applicable
Connecticut p. 20	Mandatory/Determinate	Indeterminate	Sex assault w/firearm, burglary, repeat felon, assault on elderly	10-15 days/month served	No
Delaware p. 21	Mandatory/Determinate	Determinate	Murder, kidnapping, prison assault, robbery, narcotics, deadly weapon, habitual criminal, obscenity, others	5-10 days/month served	No
Georgia p. 24	Mandatory/Determinate	Determinate	Armed robbery, burglary, drugs	1 day/1 day served (habitual Offender: 1 day/4 days served)	Yes
Idaho p. 25	Mandatory/Determinate	Determinate	Firearm, repeat (extortion, kidnap, rape) bodily injury	5-10 days/month served plus Industrial time	Yes-for some
Illinois p. 26	Mandatory/Determinate	Indeterminate	Major offenses, Class X, repeaters, weapons	1 day/1 day served	No
Indiana p. 28	Mandatory/Presumptive Determinate	Indeterminate	Repeat felons, violent crime, deadly weapon	1 day/1 day served	No
Iowa p. 29	Mandatory/Indeterminate	Indeterminate	Forcible felonies, firearms, habitual offender, drugs	1 day/1 day served	Yes-for some
Kansas p. 30	Mandatory/Indeterminate	Indeterminate	Sex, firearms	None	Yes-for Life Sentences
Maine p. 31	Determinate	Indeterminate	None	Not applicable	Not Applicable
Maryland p. 32	Mandatory/Determinate and Guidelines	Determinate	Repeat violent offenders, handgun	5 days/month plus training or work credit	No

*For full state descriptions, see the remainder of this section. Note page numbers in the first column. For discussions of features, see Section C on the pages indicated.

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TABLE 2: CAPSULE DESCRIPTIONS OF STATE SENTENCING* (Continued)

State	Present Type-p. 2	Former Type p.4	Mandatory Offenses - p. 4	Possible Release Before Serving Mandatory Minimum - p.8	
				"Good Time" Reduction	Other Early Release Provisions?
Massachusetts p. 34	Mandatory/Indeterminate	Indeterminate	Firearm, auto theft, drug trafficking	None	No
Michigan p. 35	Mandatory/Indeterminate	Indeterminate	Murder, armed robbery, treason, firearms	Treason only: 1-3 days/4 days served	No
Minnesota p. 36	Guidelines	Determinate	None	Not applicable	Not Applicable
Mississippi p. 38	Mandatory/Determinate	Determinate	Armed robbery, repeat felony	None	No
Missouri p. 39	Mandatory/Determinate	Indeterminate	Dangerous weapon, repeat felons	None	Yes-for some
Montana p. 40	Mandatory/Indeterminate	Indeterminate	Firearms	None	Yes
Nevada p. 41	Mandatory/Determinate	Determinate	Murder, 2nd degree, kidnapping, 1st degree, Sexual assault, firearms, repeat felony	2-5 months/year served for most mandatory plus work, study time	Yes
New Hampshire p. 42	Mandatory/Indeterminate	Indeterminate	Firearms	None	No
New Jersey p. 43	Mandatory/Presumptive Determinate	Indeterminate	Sexual Assault, firearms	None	No
New Mexico p. 44	Mandatory/Presumptive Determinate	Indeterminate	Firearms	10-30 days/month served	No
New York p. 45	Mandatory/Indeterminate	Indeterminate	Violent felonies, non-violent felonies	None	No
North Carolina p. 47	Mandatory/Presumptive Determinate	Indeterminate	Armed robbery, burglary - 1st degree, repeat felony with a firearm	1 day/1 day served plus work time	No
North Dakota p. 48	Mandatory/Determinate	Determinate	Firearms	None	Yes
Ohio p. 49	Mandatory/Indeterminate	Indeterminate	Rape, drug trafficking	5-10 days/month served	No
Oklahoma p. 50	Mandatory/Determinate	Determinate	Repeat felons	None. Work Credits 1 day/1 day worked	Yes
South Carolina p. 51	Mandatory/Determinate	Determinate	Armed robbery, drugs, bomb threat	15-20 days/month served plus work time	No
Tennessee p. 52	Mandatory/Determinate and Indeterminate	Indeterminate	Class X, firearms, repeat felony	None	Yes
Texas p. 54	Mandatory/Determinate	Indeterminate	Repeat felons, violent offenses	2 days/3 days served plus trustee time	No
Washington p. 55	Mandatory/Indeterminate	Indeterminate	Firearms, rape, repeat felons	None	Yes
West Virginia p.56	Mandatory/Indeterminate	Indeterminate	Firearm in felony	None	No

*For full state descriptions, see the remainder of this section. Note page numbers in the first column. For discussions of features, see Section C on the pages indicated.

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ALABAMA

Present Mandatory/Determinate Sentencing

Determinate sentencing, including the Habitual Offender Act, became effective in July, 1979. Each offense type carries a range, from which a single term of incarceration can be given. Probation and suspended sentences are alternatives except for repeat felons.

For each prior felony conviction, the offender must be incarcerated to the minimum (within the range) of the next higher felony class. With two priors, sentencing jumps two classes above the instant offense, etc. A repeat felon can be sentenced to a minimum of two years, and up to life without parole (depending on the number of priors).

Mandatory Sentencing

Mandatory Offenses	No. Prior Convictions	Mandatory Minimum Sentence		Notes
		Length	Subject to Reductions?	
Repeat felons	1+	2 yrs. to life without parole	Yes	

"Good Time" Provisions

All offenses: 2 days/1 day served.

This rate is calculated on only one-third of the sentence; two-thirds of the sentence is automatically eliminated. Stated in other terms, time served is one-third of the sentence minus 2 days for each day served.

Parole Provisions

There is parole discretion at release and supervision after release. The first eligibility date for parole is based on good-time and cannot occur earlier. However, release is not automatic.

ALASKA

Present Mandatory/Determinate Sentencing

Alaska has determinate sentencing for three felony classes plus kidnapping and murder. Effective January 1, 1980, presumptive terms were instituted for prior felony convictions and the use of a firearm in the commission of a class A felony. Mandatory sentencing exists for murder, kidnapping, firearms, and repeat felons.

In general, each felony class has a range of penalties from which a single term is given. For the presumptive conditions, a single term is given but the range is more narrow.

Mandatory Sentencing

Mandatory Offenses	No. Prior Convictions	Mandatory Minimum Sentence		Notes
		Length	Subject to Reductions?	
Kidnapping and 2nd degree Murder	0	5 yrs.	Yes	
Use of firearm in Class A felony	0	3 yrs.	Yes	
Repeat Offender: Prior Class A felony convictions	1	5 yrs.	Yes	
	2	7½ yrs.	Yes	
Repeat Offender: Prior Class B felony convictions	1	4 yrs.	Yes	
	2	6 yrs.	Yes	
Repeat Offender: Prior Class C felony convictions	1	2 yrs.	Yes	
	2	3 yrs.	Yes	

"Good Time" Provisions

All sentences: 1 day/3 days served

Release is not automatic.

Parole Provisions

Offenders must serve one-third of their minimum before parole eligibility. Thus, the board can release earlier than minimum minus good time. There is post release supervision.

ARIZONA

Present Mandatory/Presumptive Determinate Sentencing

The use of a firearm and a repeat felony conviction each carry a mandatory prison sentence.

The Presumptive Determinate sentencing scheme went into effect in October 1978. Each class of felony has a presumptive term. A judge can increase the term by 25% or 100% (depending on felony class) or he can decrease the term by 25% or 50% (depending on felony class). The judge must stay within these boundaries.

Mandatory Sentencing

Mandatory Offenses	No. Prior Convictions	Mandatory Minimum Sentence		Notes
		Length	Subject to Reductions?	
A. Use of firearm in commission of Class 2, 3 felony	0	*	Yes	
B. Use of firearm in commission of Class 4,5,6 felony	0	**	Yes	
C. Repeat Offender: Conviction of class 2 or 3 felony conviction within past 10 years	1	*	Yes	
D. Repeat Offender: Conviction of class 4, 5, 6 felony with a prior class 4,5,6 felony within past 10 years	1	**	Yes	

*Class 2 & 3. The presumptive is tripled for the maximum. The mandatory minimum becomes the mid-point between the presumptive and the maximum.

**Class 4, 5, 6 felony. The presumptive is doubled.

"Good Time" Provisions

Class I prisoner: 1 day/2 days served.

Arizona

Class II prisoner: 1 day/3 days served.

Release is not automatic

Parole Provisions

The Parole Board decides the release date, with the good time rate forming the approximate release date. The Board also supervises upon release.

A rule of thumb is that a class I prisoner can be released after serving one-half of his term. A Class II prisoner (a repeat class 2 or 3 felon) can be released after serving two-thirds of his sentence. This "rule of thumb" provides for an earlier release than the term minus good time.

ARKANSAS

Present Mandatory/Determinate Sentencing

Two offenses carry mandatory prison terms; armed robbery (since 1975) and felonies committed with a deadly weapon (since March, 1981). All other sentencing in general is determinate, with the court setting a maximum within a range imposed by statute for each offense rank.

Mandatory Sentencing

Mandatory Offenses	No. Prior Convictions	Mandatory Sentencing		Notes
		Minimum Length	Subject to Reductions?	
Felony while armed with a deadly weapon	0	10 yrs	Yes	
Robbery, armed (or represents to be armed)	0	6 yrs	Yes	
	1	15 yrs	Yes	
	2	30 yrs	Yes	
	3	50 yrs	Yes	

"Good Time" Provisions

All sentences:

There are three general categories of prisoners on the basis of good behavior, work, or discipline.

Class I: 10 days/month served

Class II: 5 days/month served

Class III: No reduction

Parole Provisions

Mandatory minimum sentences, minus good time, must be served. On a second conviction, one-third of the sentence must be served, and on a third or subsequent conviction, one-half must be served, minus good time. The offender is then eligible for parole with supervision.

CALIFORNIA

Present Presumptive Determinate Sentencing

California's "Uniform Determinate Sentencing Act of 1976" became effective July 1, 1977, replacing an indeterminate model. The legislature has indicated a "middle term" (presumptive) sentence for each felony offense, plus "lower" and "upper" terms which may be applied when a preponderance of the evidence (aggravating and/or mitigating) justifies it. The "lower" and "upper" terms are not limits to a range but prescribed sentences. Reasons for all sentences must be given on the record. In addition, a sentence can be lengthened if: a) a deadly weapon were used or carried, or b) great bodily injury were inflicted, or c) the defendant had served a prior prison term.

Judges are free to choose incarceration, probation, or a suspended sentence, but criteria to be considered are included in the Act. The stated objective of the new system is punishment, with procedures to promote fairness and uniformity.

Mandatory Sentencing: None

Presumptive - Determinate Sentencing

Prison terms for felony offenses are listed below, including the shortest sentence, the middle (to be given absent aggravating or mitigating circumstances), and the longest sentence for each offense. Judges have discretion, based on circumstances, to give one of the three as a determinate sentence.

Offense	Sentence (years)		
	Lower	Middle	Upper
Second degree murder	5	7	11a
Voluntary manslaughter	2	4	6
Rape	3	6	8
Robbery	2	3	5
Arson	2	4	6
Burglary, first degree	2	4	6
Burglary, second degree	2	3	4
Assault with deadly weapon	2	3	4
Vehicle Theft	2	3	4
Forgery	2	3	4
Sale of Narcotics	3	4	5
Possession of narcotics for sale	2	3	4
Possession of narcotics	16 mo.	2	3

^aChanged to indeterminate sentence by state initiative.

Enhancements are permitted lengthening any of the above sentences where deadly weapons were involved, where serious bodily injury resulted, or where the offender has been in prison before. Generally the total sentence cannot be more than double the sentence before adding enhancement.

"Good Time" Provisions

All sentences; 1 day/2 days served.

Good time may be reduced up to 1 month per year for failure to participate in work programs.

California

Parole Provisions

In the change to determinate sentencing, the parole boards (the Adult Authority and the Women's Board) were replaced by a "Board of Prison Terms" with discretion limited to fixing terms for life sentences, making decisions about good time, waiving parole supervision, and reviewing sentencing disparity. Previously the Boards set the lengths of Prison and Parole terms based on a rehabilitative philosophy:

Inmates serving indeterminate sentences when determinate sentencing took effect (July, 1977) were retroactively given a new maximum term by the Board of Prison Terms (then called the Community Release Board), with extensions where justified by the facts proven during conviction. A release date was also set by the same board under the old indeterminate law, and offenders were released on the earlier of the two dates (a "hold harmless" provision).

Parole time is not a part of the sentence, but is "tacked-on" for up to 3 years (5 years for life sentences). Parole revocation may extend the sentence by up to 1 year.

Plea Bargaining Provisions

If a plea accepted by the prosecutor specified a prison term other than the middle term, such term may be imposed by the court provided there is evidence provided for the record justifying it.

(According to a Rand Corporation study, prosecutors may frequently drop sentence enhancements -- especially due to prior records -- in exchange for a guilty plea and acceptance of a prison term.)

CONNECTICUT

New Mandatory/Determinate Sentencing

Effective July 1, 1981 Connecticut changed from an indeterminate to a determinate sentencing system, with several mandatory provisions. Suspended sentences or probation can be used except for mandatory minimums.

The Commissioner of Corrections has the power to seek sentence or bond reductions for inmates when faced with unsafe correctional conditions.

Mandatory Sentencing

Mandatory Offenses	No. Prior Convictions	Mandatory Minimum Sentencing		Notes
		Length	Subject to Reductions?	
Persistent felony offender	2+	3 yrs.	Yes	
Assault - first degree	0	5 yrs.	Yes	
Assault on senior citizens - 2nd degree	0	2 yrs.	Yes	
Assault on senior citizen - 2nd degree with firearm	0	3 yrs.	Yes	
Sexual Assault - 1st degree with firearm	0	5 yrs.	Yes	
Burglary - 1st degree	0	5 yrs.	Yes	

"Good Time" Provisions

All sentences: First 5 years - 10 days/month.
Subsequent years - 15 days/month.

Parole Provisions

Under the new system there will be no parole release either before or after expiration of the sentence, and no supervision. The parole board will continue to have release power until all people sentenced under the old laws have exited the system.

DELAWARE

Present Mandatory/Determinate Sentencing

Mandatory sentencing laws sometimes give a specific amount of time, and sometimes a range within which a definite sentence must be given and served. Other determinate sentences allow a wide range of judicial options up to a maximum set by law.

The current criminal code went into effect July 1, 1973. During a period of 8 months prior to the effective date of the new criminal code, the mitigating provisions of the new act could be applied to first-degree murder.

Persons over 16 years of age charged with possession of a deadly weapon during commission of a felony are tried as adults and are subject to the 5 year mandatory minimum.

Mandatory Sentencing

Mandatory Offenses	No. Prior Convictions	Mandatory Minimum Sentence		Notes
		Length	Subject to Reductions?	
Murder-First Degree	0	Life	Yes	
Murder-Second Degree	0	Life imprisonment without suspension, probation, or reduction by the court		
Rape-First Degree				
Kidnapping-First Degree				
Attempted Murder-1st Deg			Yes	
Attempted Class A Felony	0	Prison (up to life)	Yes	
Assault in a Detention Facility-Intentional	0	3 years	Yes	Enhancement
Serious Physical Injury				
Robbery-First Degree	0	3 years	Yes	
	1+	10 years	Yes	
Possession of a Deadly Weapon during the Commission of a Felony	0	5 years	Yes	Enhancement
Sexual Exploitation of a Child (for Pornography)	1	Life	Yes	
Assault in a Detention Facility-Intentional Physical Injury	0	2 years	Yes	

Delaware

Mandatory Offenses	No. Prior Convictions	Mandatory Minimum Sentence		Notes
		Length	Subject to Reductions?	
Obscenity-Involving Person Under 18	0	60 days	Yes	
Narcotics-Delivery, (including counterfeit) manufacture, intent to deliver by non-addict	0	30 years plus \$25,000 fine	Yes	
Narcotics-same as above if death results	0	45 years	Yes	
Narcotics, delivery, manufacture, Schedule I or II. By Addict	0	\$5,000 Fine		
Non-Narcotic-deliver, manufacture, Schedules I-V	0	\$1,000 Fine		
Distribute Narcotics Schedule I or II to person under 18	0	Prison	Yes	
to person under 16	0	1 year	Yes	
to person under 14	0	2 years	Yes	
Non-Narcotic Schedule I-V to person under 18	0	Prison	Yes	
to person under 16	0	6 months	Yes	
to person under 14	0	1 year	Yes	
Larceny of Livestock	0	6 mos.	Yes	
Habitual Criminal-convicted 3 times of specified felonies or attempts to commit felonies	2	Life	Yes	

Delaware

"Good Time" Provisions

Good time is permitted by the correctional staff on sentences of one year or more:

First year	5 days/month served
Second year	7 days/month served
Third year	9 days/month served
Subsequent years	10 days/month served

Parole Provisions

Parole or probation are permitted only after expiration of the mandatory minimum. There is post-release supervision.

GEORGIA

Present Mandatory/Determinate Sentencing

Since January, 1977 Georgia has had mandatory minimum sentencing for armed robbery and repeat burglary convictions. Drug trafficking was added in 1980.

In general, the judge selects a determinate sentence from within a range prescribed by law. Sentences can be split between jail and probation following jail.

Mandatory Sentencing

Mandatory Offenses	No. Prior Convictions	Mandatory Minimum Sentence		Notes
		Length	Subject to Reductions?	
Armed Robbery	0	5 yrs.	Yes	
Burglary	1+	5 yrs.	Yes	
Drug Trafficking	0	5-15 yrs	Yes	Term varies with weight of drugs

"Good Time" Provisions

Habitual offenders with 2 prior incarcerations in 10 years:

1 day/4 days served

Other sentences:

1 day/1 day served

Parole Provisions

Parole is possible at any time (a "safety valve" against overcrowding), but typically occurs after one-third of sentence is served.

There is post-release supervision until the sentence minus "good time" has expired.

IDAHO

Present Mandatory/Determinate Sentencing

Mandatory sentencing began for firearm use in 1977. A higher penalty for repeat firearm offenses was added in 1979; and mandatory minimums for bodily injury and certain repeat offenses were added in 1981.

In general the judge sets a fixed period of time and the parole authority determines the release date.

Mandatory Sentencing

Mandatory Offenses	No. Prior Convictions	Mandatory Minimum Sentencing		Notes
		Length	Subject to Reductions?	
Use of a firearm in commission of a felony	0	3 yrs.	Yes	Enhancement
	1+	3 yrs.	Yes	Enhancement
Intentional bodily injury in commission of a felony	0	5 yrs.	Yes	Enhancement
Repeat Conviction for: Extortion Kidnapping Rape Sex Offenses	1	3 yrs.	Yes	Enhancement Priors within 15 years. Not in addition to bodily injury enhancement.
	2+ with prison terms	10 yrs.	Yes	Enhancement. Priors within 15 years. May supplement bodily injury enhancement or other enhancement

"Good Time" Provisions

All Offenses: Sentence of: 6 mos.- 1 yr. - 5 days/month
 1 - 3 yrs. - 6 days/month
 3 - 5 yrs. - 7 days/month
 5 - 10 yrs. - 8 days/month
 10 or more years - 10 days/month

Industrial time may be added up to 5 days/month.

Parole Provisions

With the exception of a first conviction for use of a firearm, mandatory minimum sentences are not subject to parole release prior to expiration of the sentence minus good time.

Parole release is generally possible after serving 5 years or 1/3 of the sentence -- whichever is less. Parolees are then supervised.

ILLINOIS

Present Mandatory/Determinate Sentencing

At present, there are determinate ranges for all classes of penalties along with extended ranges in some cases. There is a mandatory 6 year term for certain felonies and offenders.

On February 1, 1978 Illinois went from indeterminate to mandatory/determinate. A defendant is given a single term within a range prescribed by legislation. An extended range exists for those previously convicted of the same or higher felony class, or for particularly heinous crimes. Such crimes fall in Class X.

Probation can be given in all but Class X cases. There are mandatory probation terms - from 6 months to 4 years (depending on class).

The judge must give reasons for all terms given regardless of whether he stays within the range or not.

Mandatory Sentencing

Mandatory Offenses	No. Prior Convictions	Mandatory Minimum Sentence		Notes
		Length	Subject to Reductions?	
Class X Burglary-First Degree Armed Robbery Rape Deviate Sexual Assault Heinous Battery Aggravated Arson Treason Terrorism Armed Violence with a deadly weapon Large controlled substance transactions Aggravated Kidnapping (when ransom is sought)	0	6 yrs.	Yes	
Any Class I or II Felony	2	6 yrs.	Yes	Priors after 2/1/78
Murder Rape Treason Armed Robbery Deviate Sexual Assault Aggravated Arson Aggravated Kidnapping	2	Life	Yes	

Illinois

"Good Time" Provisions

All cases: 1 day/1 day served

Parole Provisions

The minimum minus "good time" must be served, and release is automatic. Upon release a period of parole supervision is mandatory and varies with offense class as follows:

Class	Mandatory Parole
Murder	3 years
X	3 years
I & II	2 years
III & IV	1 year

The Parole Board was abolished in the changeover and replaced by the Prison Review Board.

INDIANA

Present Mandatory/Presumptive Determinate Sentencing

New Presumptive Determinate Sentencing has replaced the indeterminate statutes, effective October 1977. Within each crime class there is a fixed or suggested term of incarceration with a broad range of years to be added (aggravation) or subtracted (mitigation). The judge can go outside the range but must specify his reasons.

Mandatory Sentencing

Mandatory Offenses	No. Prior Convictions	Mandatory Minimum Sentence		Notes
		Length	Subject to Reductions?	
A. In general, offense where a weapon is used or serious bodily injury occurs	0	*	Yes	
B. Repeat felons	1	*	Yes	
	2**	*	Yes	

*The lower limit of the felony class.

**With two prior felony convictions, the judge can add 30 years to the fixed term.

"Good Time" Provisions

All sentences: 1 day/1 day served.

In addition, the judge can suspend the remainder of a sentence within 180 days of sentencing. This does not apply to those with mandatory provisions.

Parole Provisions

Release from incarceration is automatic after the minimum minus "good time" is served, with no possibility for early parole. There is a mandatory minimum period (1 year) of parole supervision for all offenses.

IOWA

Present Mandatory/Indeterminate Sentencing

While the law provides for some flat sentences, most are indeterminate. The mandatory provisions took effect January 1, 1978.

For repeat forcible felonies, judges must sentence to incarceration for the maximum period allowed by law for the offense; and the offender must serve half of the sentence.

Mandatory Sentencing

Mandatory Offenses	No. Prior Convictions	Mandatory Minimum Sentence		Notes
		Length	Subject to Reductions?	
Forcible felonies Murder	0	Prison	-	
Sexual Abuse Rape (incl. attempted)	1	The allowed maximum:	Yes	
Robbery Kidnapping Felonious assault		5, 10, 25 or life		
Burglary- 1st degree Arson - 1st degree				
Use of firearm in felony	0	5 yrs.	Yes	
Habitual offender-felonies	2+	3 yrs.	Yes	
Delivery of controlled substance (Schedule I & II)	0	1/3 max.	Yes	

"Good Time" Provisions

All sentences (effective 7/1/81): 1 day/1 day served.

Parole Provisions

Parole eligibility begins when half of the mandatory minimum sentence (if there is one) has been served. For forcible felonies with no prior conviction, parole eligibility is immediate.

Supervision is from 1 year to the remainder of the sentence.

KANSAS

Present Mandatory/Indeterminate Sentencing

Incarceration is mandatory only for rape, aggravated sodomy, or use of a firearm in the commission of a felony. Legislation made this effective in July, 1976.

Sentencing in general is indeterminate, with legislatively prescribed ranges for both the minimum and the maximum for each offense class.

Mandatory Sentencing

Mandatory Offenses	No. Prior Convictions	Mandatory Minimum Sentence		Notes
		Length	Subject to Reductions?	
Rape, or aggravated Sodomy	0	5 yrs.	No	
Use of a firearm in Commission of a felony:				
Class A	0	Life	Yes	
Class B	0	5 yrs.	No	
Class C	0	1 yr.	No	

"Good Time" Provisions

Does not apply to mandatory minimum sentence. For other offenses, good time ranges from 20% to 50% of time served depending on length of sentence.

Parole Provisions

Persons convicted of a felony with a firearm, under the mandatory minimum statutes, are not eligible for parole before the minimum has been served. In addition, persons sentenced as repeat felons with no mandatory minimum, are also ineligible for parole before the minimum has been served. The reason the minimum is not classified as mandatory is that judges may suspend sentences for repeaters.

MAINE

Present Determinate Sentencing

The determinate sentencing statutes became effective in June 1976, replacing the indeterminate model. There are six classes of offenses, each carrying a maximum penalty; and the judge can impose a single term anywhere from probation to the maximum.

Mandatory Sentencing

There are no mandatory minimum sentences; however, an individual can be sentenced within the next higher crime class for use of a firearm.

"Good Time" Provisions

All sentences:

10 days/month

Work Credit:

2 days/month in addition to good time

Parole Provisions

There is no parole release or post release supervision under the new law.

MARYLAND

Present Mandatory/Determinate and Guideline Sentencing

Between 1975 and 1978 several mandatory sentencing provisions went into effect regarding repeat violent offenders.

Sentencing in most areas is determinate: a single sentence is selected at or below a statutory maximum. However, the state is in the process of experimenting with sentencing guidelines in four large jurisdictions, including the bulk of the state's criminal activity.

Mandatory Sentencing

Mandatory Offenses	No. Prior Convictions	Mandatory Minimum Sentence		Notes
		Length	Subject to Reductions?	
Crime of Violence:	2	25 yrs.	Yes	Must have served at least one prison term for crime of violence
Abduction Arson Kidnapping voluntary Mans. Mayhem Murder Rape Robbery Sex offenses 1st & 2nd deg. Use of handgun in felony or violent crime Attempt to commit any of the above Assault with intent to murder Assault with intent to rape	3 with prison term for each.	Life	Yes	
Use of a handgun in a felony or violent crime	0	5 yrs.	Yes	Enhancement

"Good Time" Provisions

All offenses: 5 days/30 days served

Training or work credit: additional 5 or 10 days/30 days served.

Maryland

Parole Provisions

The offender must serve the minimum less good time before parole eligibility. He is then supervised.

MASSACHUSETTS

Present Mandatory/Indeterminate Sentencing

There are mandatory minimums for carrying a firearm without a license (effective April, 1975), auto theft (October, 1980) and drug trafficking (October, 1980).

There is a statutory maximum for each class of offense from which a minimum and maximum is given.

Mandatory Sentencing

Mandatory Offenses	No. Prior Convictions	Mandatory Minimum Sentence		Notes
		Length	Subject to Reductions?	
Carrying Firearm	0	1 yr.	No	Minimum depends on amount and circumstances
Auto Theft	1	1 yr.	No	
(2nd offense) Drug Trafficking	0	1-15 yrs	No	

"Good Time" Provisions

None

Parole Provisions

An inmate is eligible for parole after serving one-third of the minimum for a non-violent offense, and two-thirds of the minimum for violent offenses.

Those sentenced under the mandatory provisions must serve the entire minimum before becoming eligible.

There is post-release supervision.

MICHIGAN

Present Mandatory/Indeterminate Sentencing

Michigan has mandatory minimum sentencing for first-degree murder, armed robbery, and treason, with enhancements for use of a firearm (effective in 1977).

In general, the law prescribes a maximum for each offense, and the judge sets a minimum that can be up to two-thirds of the maximum.

Mandatory Sentencing

Mandatory Offenses	No. Prior Convictions	Mandatory Minimum Sentence		Notes
		Length	Subject to Reductions?	
Armed Robbery	0	Unspec.	No*	(See below)
Treason	0	Unspec.	Yes	
Firearm Use	0	2 yrs	No	Enhancement Enhancement (served <u>after</u> first sentence)
	1+	5 yrs.	No	

*1978 legislation eliminating "good time" for assaultive crimes after 1978 has created two classes of lifers in the prison system.

"Good Time" Provisions

Assaultive crimes: No good time (since 1978)

Non-assaultive crimes:

1-3 days/4days served (depending on length of time served. Formula is complex.)

Parole Provisions

There is no early parole release for mandatory minimum terms, but there is supervision. The parole board's discretion involves the length of supervision, which usually ranges from 18 to 24 months (4 years maximum).

MINNESOTA

Present Guidelines Sentencing

Minnesota has sentencing guidelines (effective 7/1/80), which were proposed to eliminate sentencing disparity in that State. The former type was determinate without guidelines. Presumptive (determinate) sentences are given for the type of offense (severity) and the type of offender (criminal history). The guideline format lays out the presumptive range of incarceration for each felony offense and offender type in grid-fashion (see the copy of the grid). The guidelines also delineate those that should and those that should not be incarcerated. If the judge sentences outside the presumptive range, he must reveal his reasons in writing.

While this scheme is determinate and not mandatory in nature, there are three offenses that, when probation is not given, a specified minimum term must be served.

Under the present system, the judge, by consulting the guidelines, makes two decisions:

- A. Should the individual be incarcerated?
- B. If so, what sentence should he serve?

Semi-Mandatory Sentencing

The following offenses have mandatory minimum prison terms when a prison sentence (and not probation) is given:

Offenses	No. Prior Convictions	Mandatory Minimum Sentence		Notes
		Length	Subject to Reductions?	
First Degree Murder	0	17 yrs.	No	No good time No good time
Second Degree Murder	0	3 yrs.	No	
Use of a deadly weapon	0	3 yrs.	Yes	
	1	5 yrs.	Yes	

"Good Time" Provisions

All sentences except murder: 1 day/2 days served.

Parole Provisions

There is no release prior to serving the sentence minus "good time". Upon release, the offender is supervised in a parole status by the Department of Correction for the remainder of his term (not by the Parole Board).

The Parole Board will continue to operate until July, 1982 in order to deal with those sentenced under the old code. It will then be abolished.

Figure 2
Sentencing Guidelines Grid

Presumptive Sentence Lengths in Months

Italicized numbers within the grid denote the range within which a judge may sentence without the sentence being deemed a departure.

SEVERITY LEVELS OF CONVICTION OFFENSE	CRIMINAL HISTORY SCORE						
	0	1	2	3	4	5	6 or more
Unauthorized Use of Motor Vehicle Possession of Marijuana I	12*	12*	12*	15	18	21	24
Theft Related Crimes (\$150-\$2500) Sale of Marijuana II	12*	12*	14	17	20	23	27 25-29
Theft Crimes (\$150-\$2500) III	12*	13	16	19	22 21-23	27 25-29	32 30-34
Burglary - Felony Intent Receiving Stolen Goods (\$150-\$2500) IV	12*	15	18	21	25 24-26	32 30-34	41 37-45
Simple Robbery V	18	23	27	30 29-31	38 36-40	46 43-49	54 50-58
Assault, 2nd Degree VI	21	26	30	34 33-35	44 42-46	54 50-58	65 60-70
Aggravated Robbery VII	24 23-25	32 30-34	41 38-44	49 45-53	65 60-70	81 75-87	97 90-104
Assault, 1st Degree Criminal Sexual Conduct, 1st Degree VIII	43 41-45	54 50-58	65 60-70	76 71-81	95 89-101	113 106-120	132 124-140
Murder, 3rd Degree IX	97 94-100	119 116-122	127 124-130	149 143-155	176 168-184	205 195-215	230 218-242
Murder, 2nd Degree X	116 111-121	140 133-147	162 153-171	203 192-214	243 231-255	284 270-298	324 309-339

1st Degree Murder is excluded from the guidelines by law and continues to have a mandatory life sentence.

*one year and one day

From: U.S. Department of Justice, National Institute of Corrections, "Minnesota Sentencing Guidelines Population Projection Programs, User's Manual," February, 1981.

MISSISSIPPI

Present Mandatory/Determinate Sentencing

Judges set fixed terms within maximums prescribed by law. Mandatory sentencing for armed robbery and third-time felons has been in effect since 1977.

Mandatory Sentencing

Mandatory Offenses	No. Prior Convictions	Mandatory Minimum Sentencing		Notes
		Length	Subject to Reductions?	
Armed Robbery	0	3 yrs.	No	Each prior must have a sentence of one or more years.
Repeat Felony: With one or more violent offenses (past or current)	2+	Life	No	
with no violent offense	2+	Max. allowed	No	

"Good Time" Provisions

None for mandatory sentences. For other sentences, good time ranges from 3 to 15 days per month served.

Parole Provisions

There is no release prior to serving the minimum; and there is supervision following release.

MISSOURI

Present Mandatory/Determinate Sentencing

Determinate statutes became effective in January 1979, replacing the indeterminate structure. There are four classes of felonies, each class carrying a broad range of years from which a single term can be chosen. Upon conviction, the jury recommends the term. The judge, who makes the final decision, can only go below the recommended term (with the exception of the "dangerous" and/or "persistent" offender).

There are mandatory minimum terms for "armed criminal action" and mandatory incarcerations for "persistent" or "dangerous" offenders. (unspecified term).

Mandatory Sentencing

Mandatory Offenses	No. Prior Convictions	Mandatory Minimum Sentence		Notes
		Length	Subject to Reductions?	
Armed Criminal Action ¹	0	3 yrs.	Yes	
	1	5 yrs.	Yes	
	2	10 yrs.		
Persistent Offender ²	2	Unspec.	Yes	
Dangerous Offender ³	2	Unspec.	Yes	

¹Armed criminal action - The commission of a felony with the aid of a dangerous instrument or deadly weapon.

²Persistent offender - an individual who has a new felony conviction with two prior felony convictions.

³Dangerous Offender - an individual who has a new conviction on a dangerous offense (harm, injury, death) and two prior A or B felony convictions.

"Good Time" Provisions

None

Parole Provisions

Missouri law specifies conditional release by the parole board. If the incarceration term is from 2-9 years, release must occur after one-third of the sentence is served. If the term is between 9-15 years, then 3 years is subtracted. If the term is over 15 years, then 5 years is subtracted.

The board can release an individual prior to conditional release, with the exception of murder and armed criminal action.

After release, the individual is supervised by the board.

MONTANA

Present Mandatory/Indeterminate Sentencing

The judge sets minimum and maximum, limited only by the statutory maximums. Firearm laws went into effect in 1977.

Mandatory Offenses	No. Prior Convictions	Mandatory Sentence		Notes
		Minimum Length	Subject to Reductions?	
Firearm in commission of a felony	0	2 yrs.	Yes	See parole
	1	4 yrs.	Yes	Not an enhancement

"Good Time" Provisions

None

Parole Provisions

Parole release usually occurs after one-fifth the minimum for all offenses. There is parole supervision.

NEVADA

Present Mandatory/Determinate Sentencing

Mandatory sentencing goes back to about 1970 in Nevada, and is the result of various statutes and not a single scheme.

Sentencing in general is determinate.

Mandatory Sentencing

Mandatory Offenses	No. Prior Convictions	Mandatory Minimum Sentencing		Notes
		Length	Subject to Reductions?	
Use of a firearm	0	Min. for the offense	Yes	Enhancement
Murder - 2nd degree	0	10 yrs.	Yes	
Kidnapping - 1st degree	0	20 yrs.	Yes	
Sexual Assault	0	5 yrs.	No	
Repeat felony	2	10 yrs.	Yes	
	3+	Life	Yes	

"Good Time" Provisions

Sexual Assault: None

Other offenses (including mandatory): 1st and 2nd year: 2 mo./year
3rd and 4th year: 4 mo./year
5th and subsequent years: 5 mo./year

In addition, time can be granted (except for sexual assault) for "diligence in labor", "study merits" and being a blood donor as prescribed by the current policies of the prison board.

Parole Provisions

Except for sexual assault, parole eligibility begins at 1/3 of the sentence less good time. Good time also reduces the sentence itself (the maximum).

There is post-release supervision.

NEW HAMPSHIRE

Present Mandatory/Indeterminate Sentencing

Effective in 1978, felonious use of a firearm carries an unspecified but mandatory term of incarceration. The term can not run concurrently with the term for the instant offense.

There are statutory maximums for each class of offense. A minimum and a maximum are given, and the minimum cannot exceed one-half the maximum.

Mandatory Sentencing

Mandatory Offenses	No. Prior Convictions	Mandatory Minimum Sentence		Notes
		Length	Subject to Reductions?	
Feloneous Use of Firearm	0	Unspecified Prison	No	Enhancement to be served first

"Good Time" Provisions

None

Parole Provisions

Eligibility for parole comes at the expiration of the minimum. The minimum term given for firearms must be served in full prior to serving time on the instant offense.

NEW JERSEY

Present Mandatory/Presumptive Determinate Sentencing

A new criminal code, effective September, 1978, provides for presumptive fixed (or determinate) terms of imprisonment when imprisonment is imposed. In addition, each of four classes of offenses carries a range within which a judge may sentence based on aggravating or mitigating circumstances. In addition, a judge may set a minimum of half or less of the determinate sentence that must be served before parole eligibility.

Only in the case of repeat sexual assault or use of a firearm does the law require an incarceration sentence with a mandatory minimum. A judge may also increase the minimum term to be served above that required by law.

Where statutes for specific offenses provide for a presumption of imprisonment of some duration, including a mandatory sentence, the court may choose not to incarcerate if "his imprisonment would be a serious injustice which overrides the need to deter such conduct by others." However, if a sentence for a crime of first or second degree is non-custodial, it is not final for 10 days to permit appeal by the prosecution.

Mandatory Sentencing

Mandatory Offenses	No. Prior Convictions	Mandatory Minimum Sentence		Notes
		Length	Subject to Reductions?	
Sexual Assault	1+	5 yrs.	No	
Firearms: Possession or use is commission of a crime	0	3 yrs. (see note)	No	Minimum is one-half sentence if greater than 3 years.
	1+	5 yrs. (see note)	No	Minimum is one-half sentence if greater than 5 years.

"Good Time" Provisions

There is no good time applicable to mandatory minimums - the full term must be served.

Parole Provisions

There is parole supervision, but only after the mandatory minimum is served.

NEW MEXICO

Present Mandatory/Presumptive Determinate Sentencing

The use of a firearm carries a mandatory prison term.

Presumptive sentencing became effective July 1, 1979. Each degree of felony carries a "basic" sentence which can be altered, by the judge, by one-third depending on the circumstances.

The basic sentence can be increased further for a prior felony conviction, but the increase is not mandatory. The basic sentence can also be increased when the victim is 60 years of age or older. Although these conditions do not require a prison term, there are mandatory minimums when a prison term is given: 2 years for crime involving victims 60 years of age or older, and 1-8 years for prior felony convictions (depending on the number of priors).

Mandatory Sentencing

Mandatory Offenses	No Prior Convictions	Mandatory Minimum Sentence		Notes
		Length	Subject to Reductions?	
A. Firearms in Commission of felony	0	1 yr.	Yes	
	1	3 yrs.	Yes	

"Good Time" Provisions

All sentences;

10-30 days/month served

The individual must first be recommended by the prison board.

Parole Provisions

The minimum minus "good time" must be served before parole eligibility, and release is not automatic.

There is a mandatory post release supervision period of 2 years.

NEW YORK

Present Mandatory/Indeterminate Sentencing

Sentencing generally is indeterminate, with separate ranges specified by statute for the minimum and for the maximum for Class A and B-II felonies. For other Class B and Class C felonies, the minimum is 1 year to 1/3 of the maximum; and for Classes D and E, the minimum is 1 year.

Mandatory sentencing began in 1974 with repeat drug-related offenses. In 1978, mandatory minimums were enacted for violent and non-violent felony offenders, and in August, 1980 mandatory minimums were imposed for use of a handgun. Sentences escalate for second offenses and again for third offenses. For third offenses the label "persistent" is applied.

Plea bargaining has been restricted to the extent that if the indictment charges a Class A, B, or C violent felony offense, the charges on which a plea is accepted must include a violent felony offense. This has the effect of prohibiting a plea that would avoid a prison sentence.

Mandatory Sentencing

Mandatory Offenses	No. Prior Convictions	Mandatory Minimum Sentencing		Notes
		Length	Subject to Reductions?	
Felony - Class A-I (except 1st degree murder)	0	15 yrs.	No	
Class A-II	0	3 yrs*	No	
"Violent Felony" Class B:	0	2 yrs.	No	
Attempted: Arson - 1; Kidnap-1; Murder -2	1	6 yrs.	No	Prior in last 10 years in New York "Persistent" violent offender
Kidnapping 2nd degree	2+	10 yrs.	No	
Agg. Sexual assault				
Burglary - 1st degree				
Manslaughter-1st degree				
Arson - 2nd degree				
Rape - 1st degree				
Robbery - 1st degree				

New York (Cont'd)

Mandatory Offenses	No. Prior Convictions	Length	Subject to Reductions?	Notes
Sodomy - 1st degree	}			
Criminal possession of dangerous weapon, 1st deg.)				
Criminal use of firearm -1st deg)				
Agg. Assault on peace officer)	}			
Class C:				
Attempted Class B)	0	1½ yrs.	No	
Assault - 1st deg)	1	4 yrs.	No	
Burglary-2nd deg.)	2+	8 yrs.	No	
Robbery-2nd deg.)				
Criminal possession of weapon 2nd degree				
Criminal use of firearm-2nd deg.)	}			
Class D				
Attempted Class C)	1**	2½ yrs.	No	
Assault-2nd deg.)	2+	6 yrs.	No	
Criminal sale firearm-2nd deg.)				
Sexual abuse - 1st deg.)				
Non-Violent Felony				
Class A-II	1+	6 yrs.	No	
Class B	0	1 yr*	No	
	1	4½ yrs*	No	
Class C	0	1 yr***	No	
	1	3 yrs*	No	
Class D	1	2 yrs*	No	

*Lifetime probation is permitted in return for material assistance to the State in connection with a drug offense.

**Term for assault 2nd degree or attempted assault 1st degree may be as little as 1 day.

***For drug 4th degree offenses, a sentence of 1 day is possible.

"Good Time" Provisions

The maximum portion of a sentence may be reduced by 1/3 for good behavior, but the minimum must be served.

Parole Provisions

There is supervision, but no release prior to serving the minimum.

NORTH CAROLINA

Present Mandatory/Presumptive Determinate Sentencing

The Fair Sentencing Act became effective July, 1981. The act provides for a presumptive term within a range for each felony class. Probation and suspended sentences are alternatives to incarceration. When the judge makes the decision to incarcerate, he is expected to give the presumptive term; and if he deviates, he must specify his reasons. The presumptive terms are increased for prior felony convictions, but incarceration is not mandatory.

There are mandatory minimums for three offenses.

Mandatory Sentencing

Mandatory Offenses	No. Prior Convictions	Mandatory Minimum Sentence		Notes
		Length	Subject to Reductions?	
Armed Robbery	0	14 yrs.	Yes	
Burglary - 1st degree	0	14 yrs.	Yes	
Firearm use in a felony	1	14 yrs.	Yes	

"Good Time" Provisions

All Sentences: 1 day/1 day served

Additional gain time for certain work assignments: 6 days/month served.

Parole Provisions

The parole board will continue to have release powers for misdemeanants and felons sentenced under the old law; eventually to be phased out.

Under the present system, release occurs 90 days prior to the eligibility date (including good-time and gain time). The person is supervised for those 90 days (called reentry parole) and is then unconditionally released from his sentence. Except for the 90 days, the sentence minus "good time" and gain time must be served.

NORTH DAKOTA

Present Mandatory/Determinate Sentencing

The use of a firearm has carried a mandatory minimum sentence since 1977.

In general, there are seven classes of offenses, each carrying a statutory maximum term. A flat term is given, which becomes the maximum, and no minimum is set. However, the parole board sets a release date (date for hearing) based upon offense, offender type, etc.

Mandatory Sentencing

Mandatory Offenses	No. Prior Conviction	Mandatory Minimum Sentence		Notes
		Length	Subject to Reductions?	
Use of firearm in commission of a Class A or B felony	0	4 yrs.	No*	
C felony	0	2 yrs.	No*	

*The Judge, within 120 days, can suspend the remainder of the term.

"Good Time" Provisions

Firearm offenses: No good time

All other offenses: 6-10 days/month served (depending on length of sentence).

Parole Provisions

The Parole Board has release powers and supervision duties. Release can be granted at any time.

OHIO

Present Mandatory/Indeterminate Sentencing

Ohio has an indeterminate structure with some mandatory provisions. Each of four classes of felonies carries a statutory maximum along with four choices of minimums. The judge can impose a minimum-maximum within the range, though he is bound only by the maximum, not the minimum.

Mandatory Sentencing

Mandatory Offenses	No. Prior Convictions	Mandatory Minimum Sentence		Notes
		Length	Subject to Reductions?	
Rape	1	5 yrs.	Yes	
Rape (victim under age 13)	1	10 yrs.	Yes	
Drug Trafficking (opiates)	0	5 yrs.	Yes	
	1	7 yrs.	Yes	

"Good Time" Provisions

All Sentences:

If the minimum term is:

- 1 year - 5 days/month
- 2 years - 6 days/month
- 3 years - 8 days/month
- 4 years - 9 days/month
- 5 years - 10 days/month

Parole Provisions

The parole board can release the individual at the expiration of the minimum minus good time, but release is not automatic. Upon release the board supervises the individual for at least one year.

The board can also release the individual earlier. This is called "shock parole" and can occur 3 months after sentencing. Shock parole does not apply to mandatory sentences.

OKLAHOMA

Present Mandatory/Determinate Sentencing

Since 1978 Oklahoma has had a mandatory minimum sentence for third-time felony convictions, subject to Parole Board release.

Offenses generally carry a legislated range, which the judge passes on to the jury. Juries determine sentences, which nearly always are determinate but can be indeterminate. This system has operated since statehood.

Mandatory Sentencing

Mandatory Offenses	No. Prior Convictions	Mandatory Minimum Sentence		Notes
		Length	Subject to Reductions?	
Repeat felony	2+	20 yrs.	Yes	

"Good Time" Provisions

Good time: None

Earned work time: 1 day/1 day in work program.
(If medically unable to work: 5 days/7 days served.)

Parole Provisions

The Pardon and Parole Board has complete discretion regarding release, including mandatory sentences. The Board uses guidelines in a matrix form to determine a presumptive parole date. The guidelines are based primarily on earned work credits, and release is usually based on the guidelines. There is supervision following release.

SOUTH CAROLINA

Present Mandatory/Determinate Sentencing

In 1976, a new act required a mandatory minimum for armed robbery. Drug offenses and bomb threats also carry mandatory provisions.

Sentences generally consist of a fixed term subject to good time, earned work credits, and parole; but part or all may be suspended.

Mandatory Sentencing

Mandatory Offenses	No. Prior Convictions	Mandatory Minimum Sentence		Notes
		Length	Subject to Reductions?	
Murder		20 yrs.	Yes	
Robbery with deadly weapon - age 21+ age 18-20		7 yrs. 3 yrs.	Yes Yes	No earned work credit No earned work credit
Drugs: LSD, Cocaine	1	5 yrs.	Yes	
Manufacture or possession with intent to distribute	2	15 yrs.	Yes	
Drugs: Other Schedule I (as above)	2	5 yrs.	Yes	
Bomb Threat	1	5 yrs	Yes	

"Good Time" Provisions

First Year: 15 days/month

Subsequent Years: 20 days/month

In addition, Earned Work Credits can be earned ranging from 1 day for 7 worked to 1 day for 2 worked to a maximum of 180 days per year. This does not apply to the mandatory minimum for armed robbery.

Parole Provisions

Except for mandatory minimums, parole eligibility begins at 1/3 of the sentence given (including portions suspended).

TENNESSEE

Present Mandatory/Determinate and Indeterminate Sentencing

Since July, 1979, Tennessee has had a special Class X for serious offenses with mandatory minimum sentencing. Class X mandatory sentences are determinate in nature.

Sentencing in general, however, is indeterminate. All trials are by jury, and the jury sets the sentence within the legal limits. Judges sentence in cases with guilty pleas.

Possession or use of a firearm in commission of a felony, and a fourth conviction for a felony shall result in a mandatory sentence, also.

Mandatory Sentencing

Mandatory Offenses	No. Prior Convictions	Mandatory Minimum Sentencing		Notes
		Length	Subject to Reductions?	
Class X: Murder - 1st & 2nd degree	0	10 yrs	Yes	
Aggravated Rape				
Aggravated sexual battery with injury				
Armed robbery				
Aggravated arson with injury				
Conspiracy to murder				
Assault with intent to murder				
Aggravated kidnapping with injury				
Narcotics: Manufacture, delivery or sale				

Tennessee (Cont'd)

Mandatory Offense	No. Prior Convictions	Length	Subject to Reductions?	Notes
Assault from ambush				
Willful injury from explosives				
Possession of firearm in felony	0	2 yrs.	Yes	Enhancement
Use of firearm in felony	0 1+	5 yrs. 10 yrs.	Yes Yes	Enhancement Enhancement
Repeat felony	3+	Life	No	

"Good Time" Provisions

There is no good time for Class X offender or repeat felony offenders. Others receive 10-30 days/month served depending on total time served.

Parole Provisions

Class X offenders are eligible for parole after serving 40% of their sentences, but Class X status is considered heavily by the Parole Board in the actual granting of parole. There is supervision upon release.

Other offenders are eligible after serving their minimum sentences or one year -- whichever is greater.

TEXAS

Present Mandatory/Determinate Sentencing

The determinate sentencing structure became effective in July, 1979, replacing indeterminate sentencing. Each felony class carries a range from which a single term is given. Probation and suspended sentences can be used except when the term given (by jury) is greater than ten years or when the offender is a repeat felon.

Mandatory incarceration is required for repeat felons for a term that is at least the minimum within the particular range. With one prior felony conviction, the offender is punished for at least the minimum term within the next higher class. There are further enhancements for more than one prior felony conviction.

Certain aggravated offenses carry a mandatory minimum of 5 years.

Mandatory Sentencing

Mandatory Offenses	No. Prior Conviction	Mandatory Minimum Sentence		Notes
		Length	Subject to Reductions?	
Repeat felons	1+	See note	Yes	Incarceration for minimum of next higher offense class
Aggravated Kidnapping Rape Sexual Abuse Robbery	0	5 yrs.	Yes	

"Good Time" Provisions

All offenses: 2 days/3 days served

Trustee Status: Additional 2 days/ 1 day served

Release is not automatic

Parole Provisions

Based on good time, the parole board can release after one-third of sentence is served. There is post-release supervision.

WASHINGTON

Present Mandatory/Indeterminate Sentencing

There are mandatory provisions for firearms and prior felony convictions which became effective in 1969 and 1909 respectively. There are also provisions for first degree rape.

There are 3 classes of felonies, each carrying a statutory maximum. The judge sets a single term and the parole board, within 6 months, sets the minimum. Unlike North Dakota, there are specific parole guidelines to be followed, and therefore it is an indeterminate rather than determinate scheme.

Mandatory Sentencing

Mandatory Offenses	No. Prior Convictions	Mandatory Minimum Sentence		Notes
		Length	Subject to Reductions?	
A. Firearm in commission of felony	0	5 yrs	Yes	
	1	7½ yrs	Yes	
	2	15 yrs	Yes	
B. Rape - First Degree	0	3 yrs	No	
C. Repeat felony conviction	1	10 yrs	Yes	*
	2	Life	Yes	

*These statutes are rather broad and are not used that often -- mostly with serious offenses.

"Good Time" Provisions

None

Parole Provisions

The person becomes eligible for parole after one-third of his minimum is served (except for rape). There is parole supervision.

WEST VIRGINIA

Present Mandatory/Indeterminate Sentencing

Mandatory sentencing for use of a firearm in the commission or attempted commission of any felony has been in effect since 1979.

Mandatory Sentencing

Mandatory Offenses	No. Prior Convictions	Mandatory Minimum Sentencing		Notes
		Length	Subject to Reductions?	
Use of a firearm in a felony (including attempt)	0	Prison	No	

"Good Time" Provisions

None

Parole Provisions

Parole eligibility begins when the minimum has been served. There is supervision after release.

END