

Arkansas Sentencing Commission * November 2019

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This document was produced by Arkansas Sentencing Commission staff. It is intended for use **ONLY** as a guide for filling out the Sentencing Order. If you have any specific questions, or need assistance with an Order, please contact staff at one of the above e-mail addresses and someone will be get in touch with you ASAP. Thank you!

Judicial Transfer Sentence

Defendant Sentence* (See page 2) Imposed <input type="checkbox"/> ADC <input checked="" type="checkbox"/> Jud. Tran. <input type="checkbox"/> County Jail _____ months Probation _____ months SIS _____ months Other <input type="checkbox"/> Life <input type="checkbox"/> LWOP <input type="checkbox"/> Death	If probation or SIS accompanied by period of confinement, state time: _____ days or _____ months.
	Sentence was enhanced _____ months, pursuant to A.C.A. § _____. Enhancement is to run: <input type="checkbox"/> Concurrent <input type="checkbox"/> Consecutive.
	Defendant was sentenced as a habitual offender, pursuant to A.C.A. §5-4-501, subsection <input type="checkbox"/> (a) <input type="checkbox"/> (b) <input type="checkbox"/> (c) <input type="checkbox"/> (d)

Only check CCC on the back page when a Defendant has been sentenced to CCC via Judicial Transfer. DO NOT CHECK THIS BOX FOR PROBATION/SIS PLUS. Finally, check the bottom box for instructions to the County Sheriff.

DEFENDANT IS ASSIGNED TO: ADC ADC, Admin. Transfer Authorized CCC COUNTY JAIL PROBATION SIS



The County Sheriff is hereby ordered to: transport the defendant to county jail take custody for referral to CCC transport to ADC
 Defendant shall report to ACC probation officer for report date to CCC Yes No

Probation Plus Sentence

Defendant Sentence* (See page 2) Imposed <input type="checkbox"/> ADC <input type="checkbox"/> Jud. Tran. <input type="checkbox"/> County Jail _____ months Probation _____ months SIS _____ months Other <input type="checkbox"/> Life <input type="checkbox"/> LWOP <input type="checkbox"/> Death	If probation or SIS accompanied by period of confinement , state time: _____ days or <u>12</u> months.
	Sentence was enhanced _____ months, pursuant to A.C.A. § _____. Enhancement is to run: <input type="checkbox"/> Concurrent <input type="checkbox"/> Consecutive.
	Defendant was sentenced as a habitual offender, pursuant to A.C.A. §5-4-501, subsection <input type="checkbox"/> (a) <input type="checkbox"/> (b) <input type="checkbox"/> (c) <input type="checkbox"/> (d)

DEFENDANT IS ASSIGNED TO: ADC ADC, Admin. Transfer Authorized CCC COUNTY JAIL PROBATION SIS

*Limitation on period of confinement is as follows:
 365 days for CCC and
 120 days for county jail.*

Defendant's Assignment is Probation, not County Jail or CCC. As a *condition of probation*, D will be confined for 12 months either in County Jail or CCC. The two boxes below are where you indicate the location in which the Defendant is to spend his time.

The County Sheriff is hereby ordered to: transport the defendant to county jail take custody for referral to CCC transport to ADC
 Defendant shall report to ACC probation officer for report date to CCC Yes No

SIS Plus Sentence

Defendant Sentence* (See page 2) Imposed <input type="checkbox"/> ADC <input type="checkbox"/> Jud. Tran. <input type="checkbox"/> County Jail _____ months Probation _____ months SIS _____ 36 months Other <input type="checkbox"/> Life <input type="checkbox"/> LWOP <input type="checkbox"/> Death	If probation or SIS accompanied by period of confinement , state time: <u>73</u> days or _____ months. Sentence was enhanced _____ months, pursuant to A.C.A. § _____. Enhancement is to run: <input type="checkbox"/> Concurrent <input type="checkbox"/> Consecutive. Defendant was sentenced as a habitual offender, pursuant to A.C.A. §5-4-501, subsection <input type="checkbox"/> (a) <input type="checkbox"/> (b) <input type="checkbox"/> (c) <input type="checkbox"/> (d)
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DEFENDANT IS ASSIGNED TO: ADC ADC, Admin. Transfer Authorized CCC COUNTY JAIL PROBATION SIS

*Limitation on period of confinement is as follows:
365 days for CCC and
120 days for county jail.*

Defendant's Assignment is **SIS, not County Jail or CCC**. As a condition of SIS, D will be confined for 73 days either in County Jail or CCC, typically county jail when it's an odd number such as this. The two boxes below are where you indicate the location in which the Defendant is to spend his time.

The County Sheriff is hereby ordered to: transport the defendant to county jail take custody for referral to CCC transport to ADC
 Defendant shall report to ACC probation officer for report date to CCC Yes No

County Jail Sentence

Defendant Sentence* (See page 2) Imposed <input type="checkbox"/> ADC <input type="checkbox"/> Jud. Tran. <input checked="" type="checkbox"/> County Jail _____ months Probation _____ months SIS _____ months Other <input type="checkbox"/> Life <input type="checkbox"/> LWOP <input type="checkbox"/> Death	If probation or SIS accompanied by period of confinement, state time: _____ days or _____ months. Sentence was enhanced _____ months, pursuant to A.C.A. § _____. Enhancement is to run: <input type="checkbox"/> Concurrent <input type="checkbox"/> Consecutive. Defendant was sentenced as a habitual offender, pursuant to A.C.A. §5-4-501, subsection <input type="checkbox"/> (a) <input type="checkbox"/> (b) <input type="checkbox"/> (c) <input type="checkbox"/> (d)
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The County Jail Box should **only** be checked when sentencing a Defendant for a MISDEMEANOR crime. This Box should **not** be used for Probation/SIS Plus when a Defendant is being confined to county jail.

Admin Transfer Sentence

Defendant Sentence* (See page 2) Imposed <input checked="" type="checkbox"/> ADC <input type="checkbox"/> Jud. Tran. <input type="checkbox"/> County Jail _____ months Probation _____ months SIS _____ 12 months Other <input type="checkbox"/> Life <input type="checkbox"/> LWOP <input type="checkbox"/> Death	If probation or SIS accompanied by period of confinement, state time: _____ days or _____ months. Sentence was enhanced _____ months, pursuant to A.C.A. § _____. Enhancement is to run: <input type="checkbox"/> Concurrent <input type="checkbox"/> Consecutive. Defendant was sentenced as a habitual offender, pursuant to A.C.A. §5-4-501, subsection <input type="checkbox"/> (a) <input type="checkbox"/> (b) <input type="checkbox"/> (c) <input type="checkbox"/> (d)
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DEFENDANT IS ASSIGNED TO: ADC ADC, Admin. Transfer Authorized CCC COUNTY JAIL PROBATION SIS

Use this option when a sentence to judicial transfer is preferred or acceptable but you are unsure of an offender's criminal history. In this case, sentence an offender as if they are going to the ADC. Check the box under Defendant Assignment that authorizes the ADC to Administratively Transfer an offender provided there is bedspace and the offender meets eligibility criteria.

Departure Information

The Sentencing Order must include information on any departure from the sentencing guidelines on placement and sentence length, the number of months above or below the presumptive sentencing range, and justification for the departure. See A.C.A. § 16-90-802(d)(11).

Act 423 of 2017 set out additional requirements for when the court departs from the voluntary presumptive sentence range under A.C.A. § 16-90-803.

- ✚ The court must provide a justification in the record of (A) a listing of the charges and sentencing enhancements against the offender as set out in the first charging instrument as well as any additional charges or sentence enhancements subsequently added in the case, if any, and (B) a thorough recitation of the facts underlying the departure from the voluntary presumptive sentence range under A.C.A. § 16-90-803.
- ✚ The justification regarding an aggravating factor shall be entered into the sentencing order and the order is required to reflect whether the sentence is the result of an original charge or whether an original charge was Nolle Prosequi.
- ✚ If there is an agreed upon departure from the voluntary presumptive sentence, the parties shall supply written reasons to the court to attach to the sentencing order and to report to the Arkansas Sentencing Commission.

The thorough recitation of the facts contemplated by Act 423 of 2017 can be satisfied by selecting a departure reason and including that reason on the Sentencing Order. If the “other” departure reason is selected, a detailed explanation must accompany this designation.

Tips for Filling out the Sentencing Order

- ✚ Target offense designations made by the Sentencing Commission are made to be helpful but are advisory only. Refer to A.C.A. § 16-93-1201 et seq. for legal definitions or contact the Division of Community Correction or Division of Correction for specific questions regarding whether a particular offense qualifies as a target offense.
- ✚ A term of imprisonment may never be followed by a term of probation. Therefore, the ADC Box or Judicial Transfer Box should never be checked, time entered, AND have a term of months in the Probation Box. *See A.C.A. § 5-4-104(e)(3)*.
- ✚ Whether imposed at the same or a different time, multiple periods of probation or suspension run concurrently, not consecutively. If a defendant is sentenced to a term of prison and an additional term of SIS, the SIS begins to run on the day the defendant is lawfully set at liberty. If no prison term is imposed, the term of probation or SIS commences to run on the day it is imposed. *See A.C.A. §5-4-307*.
- ✚ The Sentencing Order should not be used for sanctioning a defendant in Drug Court.
- ✚ The correct way to extend probation or SIS is to use a new Sentencing Order. The amount of time put in the months blank should be the total amount of any time left on the old probation/SIS term and any additional term the defendant is being sentenced to. Do not write “extend 12” or “continue 24” in the blank on the Order.
- ✚ Always put a seriousness level for felony offenses, even if the current offense is a revocation. Seriousness level determines transfer eligibility and should always be put on the Sentencing Order.
- ✚ Total time to be served on the Sentencing Order MUST BE filled out when sentencing a defendant to the ADC or Judicial Transfer, and should always be in months. This box should be left blank when a defendant has been sentenced to County Jail, Probation, or SIS.
- ✚ Residential burglary is a Seriousness Level 7 with an offense date occurring 1/1/2018 and thereafter.
- ✚ Do not leave the race of an offender blank.
- ✚ If an offender is convicted of an offense requiring sex offender registration, please mark the appropriate box indicating such.
- ✚ Criminal History Scores on the Sentencing Order should always be a whole number between 0 and 5. A partial point should always be rounded down. Example: CHS of 1.75 should be rounded down to 1 on the Sentencing Order. A CHS totally any number above 5 should be a 5 on the Sentencing Order.
- ✚ If an offender is convicted of a domestic violence related offense, please be sure to mark the appropriate box and assess the \$25 fee under Act 583 of 2017.