

State of Minnesota

Sentencing Guidelines Commission

In the Matter of the
Proposed Adoption of Rules
of the Sentencing Guidelines
Commission Governing the
Process for Modifying the
Sentencing Guidelines

STATEMENT OF NEED AND REASONABLENESS

The need to adopt these rules arises because of the enactment of legislation in 1984 that requires a formalization of procedures for modifying the sentencing guidelines. The procedures for modifying the guidelines contained in these rules substantially follow the procedures outlined in the Administrative Procedures Act.

The Commission has had considerable experience regarding the utility of the modification procedures contained in these rules. The Commission has followed these procedures for all modifications since guideline implementation in 1980. It is a process that appears to give ample public notice of proposed modifications, ample opportunity for the public to review and critique the proposals, and ample flexibility to allow the Commission to meet and consider public comment regarding the proposals.

The justification establishing the need for and the reasonableness of the specific provisions of the rules is as follows:

Section 3000.0100, purpose and scope, limits the applicability of the procedures to modifications of the sentencing guidelines. The modification procedures specified in the rules do not extend to commentary changes, since the commentary merely explicates the sentencing guidelines.

Section 3000.0200, notice of hearing, provides thirty days notice of proposed modifications prior to a public hearing. Notice includes publication of the proposals in the State Register and mailing the proposals to all who have requested notice. Thirty days is the period designated for APA rules and is generally deemed sufficient for public review.

Section 3000.0300, conduct of hearings, sets out the process to be followed, including convening by the chairperson, availability of copies of proposed amendments, opportunity for questions by public and Commission and opportunity for presenting oral or written statements. An audio recording of the hearing is required. This process is established to ensure that all interested parties have an opportunity to speak or otherwise present their views, and to ensure that the Commission has ample opportunity to question persons making oral statements and thereby fully explore issues raised in testimony.

Section 3000.0400, receipt of written materials, allows written materials to be submitted for five days after the hearing, thereby providing the opportunity to respond to testimony by others or to elaborate upon oral testimony.

Section 3000.0500, hearing record, includes all relevant material regarding the proposed modifications. The compilation is necessary to enable the review of the process by any interested person.

Section 3000.0600, amendment adoption, establishes that the Commission may adopt proposals by majority vote of a quorum of Commission members present and establishes that the modifications be disseminated to interested persons. This section is needed to ensure that interested persons know what modifications have occurred.