5) Probation violations

The commission is discussing whether, and if so, how the sentencing guidelines may be made applicable to violations of probation. The provision under discussion follows.

Violation and Revocation of Probation. Upon a violation of probation, a judge may impose a sentence of up to ninety (90) days in the house of correction. It shall not be a departure for a Court to impose a sentence longer than ninety (90) days when a violation is based on (1) a third or subsequent violation of probation by the probationer; or (2) a new felony offense, an offense involving use of force or threat of force against another, or an offense involving the violation of a stay away/no contact order or an abuse prevention order, where the court finds that the new criminal conduct is relevant in assessing the defendant's character, behavior, and propensity for rehabilitation, and determines that a sentence longer than ninety (90) days is in the interest of justice.

For a probation violation for a term of probation served, in whole or in part, from and after a committed sentence, the Court should consider the committed sentence and any other overall sentencing scheme contemplated by the original sentencing court.

This section shall not apply to statutory minimum, minimum mandatory sentences, or suspended sentences.