

SUPPLEMENT VI - GUIDE TO SPLIT SENTENCES¹

Recently the Sentencing Commission has received questions about how to properly impose guidelines compliant split sentences. This document reviews how to impose a compliant sentence in a box where a short and/or long split sentence is permissible. Pages VI-3 to VI-5 include six hypothetical sentences and explains why each is or is not Guidelines compliant.

1. Imposing a Legal Split Sentence

To impose a legal split sentence, the Court should impose the sentence it wants the defendant to serve if probation is later revoked **and** impose the amount of supervised release required by statute. The Court should then suspend the amount of prison time it does not want the defendant to initially serve **and** suspend all the supervised release time. The Court may then set a term of probation. The Court must impose a term of supervised release because the law says that every felony sentence must be followed by an adequate period of supervised release. The Court should suspend the imposed term of supervised release when it is imposing a split sentence because the felony sentence will not be completely served and the supervised release will not begin unless, and until, probation is revoked and the defendant serves the unsuspended portion of the original prison sentence (or some lesser sentence, if the judge chooses to reduce it upon revocation). If the supervised release were not suspended, it would run concurrently with the probation and the Court, and the United States Parole Commission would both have jurisdiction in the same case at the same time. If the defendant violated probation, for example by testing positive for drugs, an anomalous result could occur with the judge deciding not to revoke probation but to order the defendant into an inpatient treatment program and the United States Parole Commission deciding to revoke supervised release and to send the defendant to prison.

2. Guidelines Compliant Split Sentences

There are two types of Guidelines compliant split sentences:

1. Short split sentence. A short split sentence is one where the Court imposes a sentence within the applicable prison range, suspends execution of all but six months or less, but not all, and places the defendant on probation up to five years. Absent a departure, it can be used only in the shaded boxes. If the judge suspends execution of all but some period longer than six months, this is a split sentence but not a short split sentence, and, unless it is a compliant long split sentence (see below), it is not Guidelines compliant.
2. Compliant long split sentence. A compliant long split sentence is one where the Court imposes a sentence within the applicable prison range, suspends execution of all but a term that also falls within the applicable prison range, such that the time initially served

¹ Supplement VI has received minor formatting changes and citation updates to align with the 2025 Manual, but otherwise remains substantively unchanged from the 2023 Manual.

(not suspended) is more than six months, and places the defendant on probation for a period up to five years following release. The sentence imposed and the term to be initially served both fall within the applicable prison range, therefore this is a compliant sentence in every box on the Master Grid and the Drug Grid. If either the number of months that the Court imposes or the number of months to be immediately served does not fall within the applicable prison range for that box, the sentence is not Guidelines compliant.

3. How to Impose a Guidelines Compliant Sentence

Imposing a compliant split sentence is a Two Step Process:

Step 1: Impose a total sentence (Time Served + Time Suspended) within Sentencing Range and the required term of supervised release.

Step 2: Suspend an amount of time that leaves a Guidelines compliant amount of time to be served and suspend the required term of supervised release in its entirety.

To be compliant with the Guidelines, a sentence must comply with both steps.

The graphics below show how to impose a compliant split sentence in Master Grid Box 7:B (18-42 Months, Prison or Short Split eligible). Note, sentences that exactly match the top or bottom of the Grid box are compliant (i.e. if it's on the line, it counts). If part of a sentence falls into a red area, it is not compliant with the Guidelines.

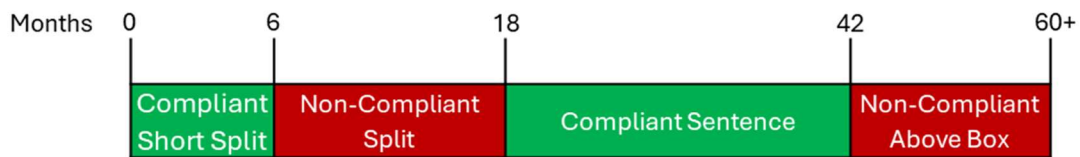
Step 1

Total Sentence Imposed (Including Time Suspended)



Step 2

Time Served



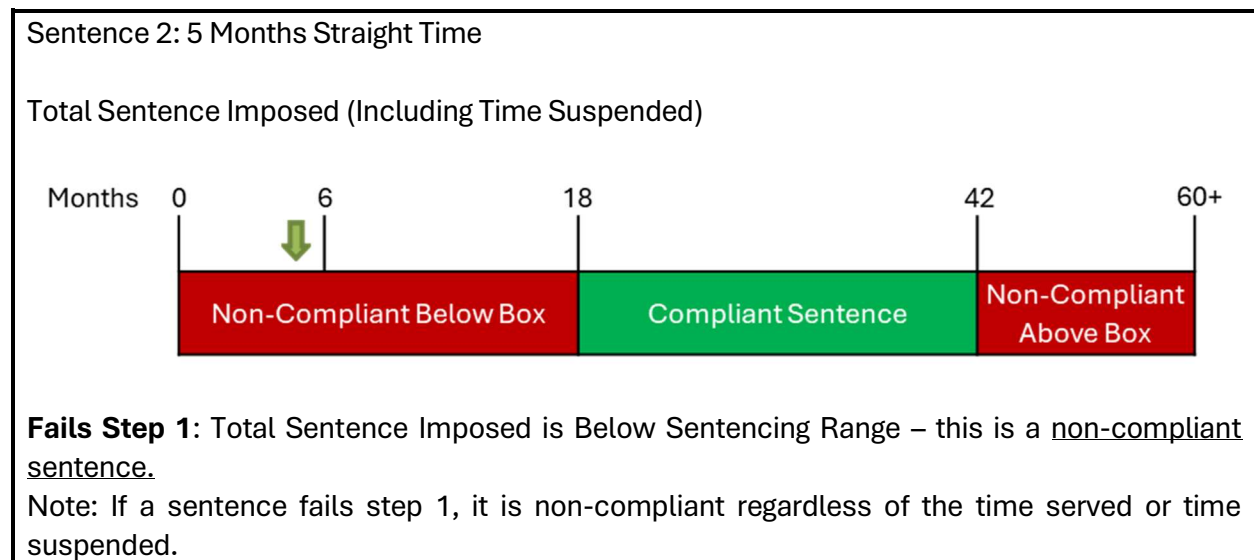
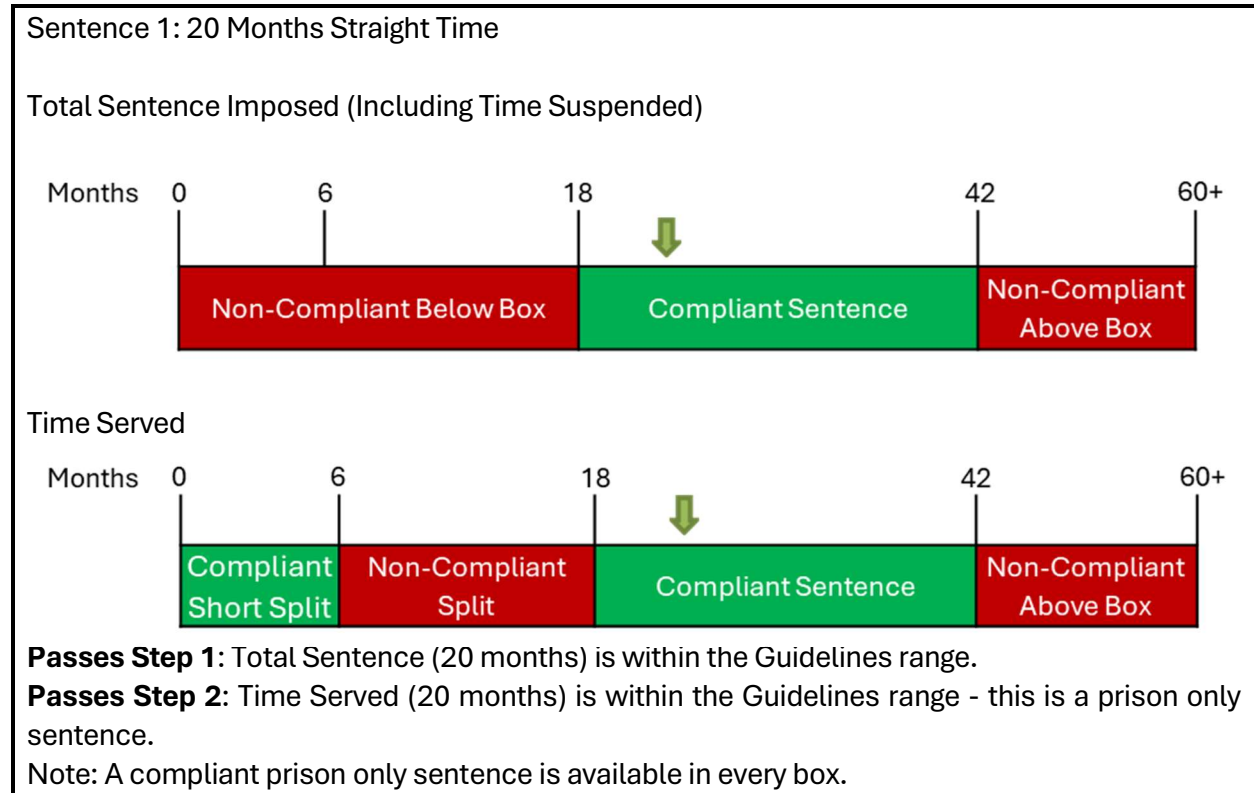
4. Hypothetical Sentences²

Offense of Conviction: Burglary II

Defendant's Criminal History Score: 1.5

Guidelines Box: Master Grid 7:B

Compliant Sentence: 18-42 Months, Prison or Short Split



² **Note:** The hypothetical sentences do not include terms of probation or supervised release.

Sentence 3: 50 Months, Execution of Sentence Suspended as to All But 40 Months

Total Sentence Imposed (Including Time Suspended)



Fails Step 1: Total Sentence is above the Guidelines range, regardless of time suspended – this is a non-compliant sentence.

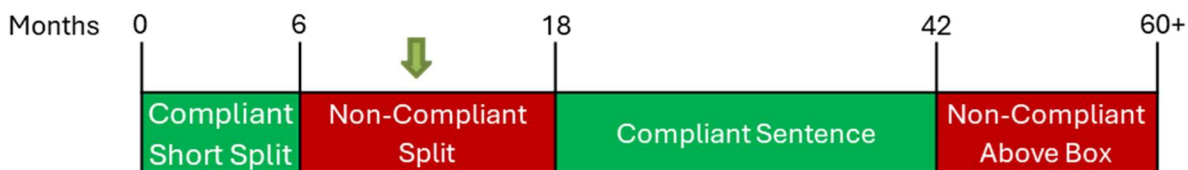
Note: If a sentence fails step 1, it is non-compliant regardless of the time served or time suspended.

Sentence 4: 20 Months, Execution of Sentence Suspended as to All But 12 Months

Total Sentence Imposed (Including Time Suspended)



Time Served



Passes Step 1: Total Sentence (20 months) is within the Guidelines range.

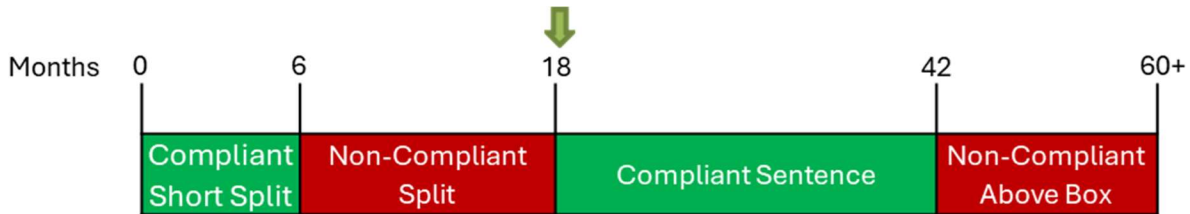
Fails Step 2: Time Served is below the Guidelines range but greater than six months – this is a non-compliant split sentence.

Note: A compliant short split sentence is one where time served is one day to six months.

Sentence 5: 24 Months, Execution of Sentence Suspended as to All But 18 Months
 Total Sentence Imposed (Including Time Suspended)



Time Served



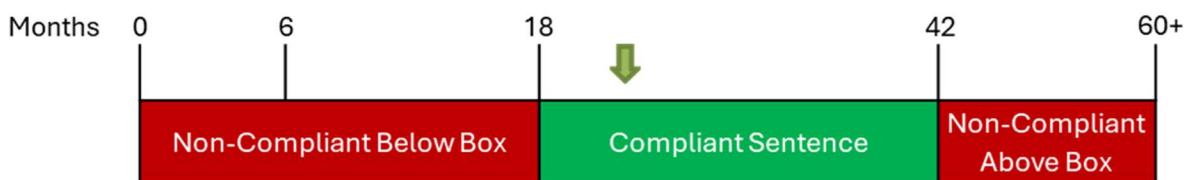
Passes Step 1: Total Sentence (24 months) is within the Guidelines range.

Passes Step 2: Time Served (18 months) is within the Guidelines range - this is a compliant long split sentence because time served equals the bottom of the Guidelines range.

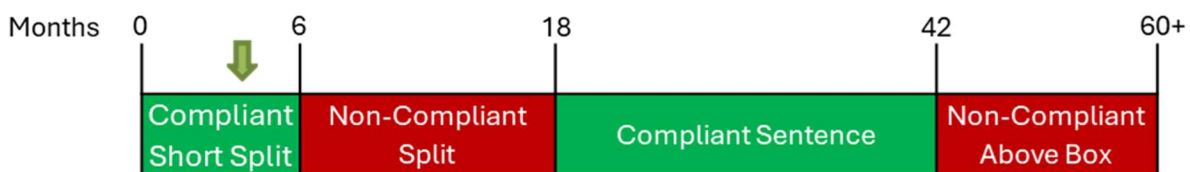
Note: A compliant long split sentence is available in every box (just like a prison only sentence).

Sentence 6: 24 Months, Execution of Sentence Suspended as to All But 4 Months

Total Sentence Imposed (Including Time Suspended)



Time Served



Passes Step 1: Total Sentence (24 months) is within the Guidelines range.

Passes Step 2: Time Served (4 months) is less than six months - this is a compliant short split.