

1 **CONSECUTIVE SENTENCING**

2 2002 GENERAL SESSION

3 STATE OF UTAH

4 **Sponsor: Ty McCartney**

5 **This act modifies the Criminal Code regarding sentencing by providing that sentences for**  
6 **multiple felonies involving separate victims shall be served consecutively unless the judge**  
7 **states for the record that consecutive sentences are inappropriate.**

8 This act affects sections of Utah Code Annotated 1953 as follows:

9 AMENDS:

10 **76-3-401**, as last amended by Chapter 275, Laws of Utah 1999

11 *Be it enacted by the Legislature of the state of Utah:*

12 Section 1. Section **76-3-401** is amended to read:

13 **76-3-401. Concurrent or consecutive sentences -- Limitations -- Definition.**

14 (1) A court shall determine, if a defendant has been adjudged guilty of more than one  
15 felony offense, whether to impose concurrent or consecutive sentences for the offenses. Sentences  
16 for state offenses shall run concurrently unless the court states in the sentence that they shall run  
17 consecutively.

18 (2) (a) The court shall order that sentences for state offenses run consecutively if:

19 (i) the later offense is committed while the defendant is imprisoned or on parole, unless  
20 the court finds and states on the record that consecutive sentencing would be inappropriate[-]; or

21 (ii) the felony offenses involve separate victims, then the court shall order that each  
22 sentence for a felony involving a separate victim be served consecutively, unless the court finds  
23 and states on the record that consecutive sentences would be inappropriate.

24 (b) Although the court may order under Subsection (2)(a) that felony sentences involving  
25 separate victims be served concurrently, the court may not order that these sentences be merged.

26 (3) If an order of commitment does not clearly state whether the sentences shall run  
27 consecutively or concurrently, and the Board of Pardons and Parole has reason to believe that the



28 later offense occurred while the person was imprisoned or on parole for the earlier offense, the  
29 board shall request clarification from the court. Upon receipt of the request, the court shall enter  
30 an amended order of commitment stating whether the sentences are to run consecutively or  
31 concurrently.

32 (4) A court shall consider the gravity and circumstances of the offenses and the history,  
33 character, and rehabilitative needs of the defendant in determining whether to impose consecutive  
34 sentences.

35 (5) A court may impose consecutive sentences for offenses arising out of a single criminal  
36 episode as defined in Section 76-1-401.

37 (6) (a) If a court imposes consecutive sentences, the aggregate maximum of all sentences  
38 imposed may not exceed 30 years imprisonment, except as provided under Subsection (6)(b).

39 (b) The limitation under Subsection (6)(a) does not apply if:

40 (i) an offense for which the defendant is sentenced authorizes the death penalty or a  
41 maximum sentence of life imprisonment; or

42 (ii) the defendant is convicted of an additional offense based on conduct which occurs after  
43 his initial sentence or sentences are imposed.

44 (7) The limitation in Subsection (6)(a) applies if a defendant:

45 (a) is sentenced at the same time for more than one offense;

46 (b) is sentenced at different times for one or more offenses, all of which were committed  
47 prior to imposition of the defendant's initial sentence; or

48 (c) has already been sentenced by a court of this state other than the present sentencing  
49 court or by a court of another state or federal jurisdiction, and the conduct giving rise to the present  
50 offense did not occur after his initial sentencing by any other court.

51 (8) When the limitation of Subsection (6)(a) applies, determining the effect of consecutive  
52 sentences and the manner in which they shall be served, the Board of Pardons and Parole shall treat  
53 the defendant as though he has been committed for a single term that shall consist of the aggregate  
54 of the validly imposed prison terms as follows:

55 (a) if the aggregate maximum term exceeds the 30-year limitation, the maximum sentence  
56 is considered to be 30 years; and

57 (b) when indeterminate sentences run consecutively, the minimum term, if any, constitutes  
58 the aggregate of the validly imposed minimum terms.

59           (9) When a sentence is imposed or sentences are imposed to run concurrently with the  
60 other or with a sentence presently being served, the lesser sentence shall merge into the greater and  
61 the greater shall be the term to be served. If the sentences are equal and concurrent, they shall  
62 merge into one sentence with the most recent conviction constituting the time to be served.

63           (10) This section may not be construed to restrict the number or length of individual  
64 consecutive sentences that may be imposed or to affect the validity of any sentence so imposed,  
65 but only to limit the length of sentences actually served under the commitments.

66           (11) This section may not be construed to limit the authority of a court to impose  
67 consecutive sentences in misdemeanor cases.

68           (12) As used in this section, "imprisoned" means sentenced and committed to a secure  
69 correctional facility as defined in Section 64-13-1, the sentence has not been terminated or voided,  
70 and the person is not on parole, regardless of where the person is located.

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**Legislative Review Note**  
**as of 11-29-01 1:15 PM**

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

**Office of Legislative Research and General Counsel**