

Based on the discussion and member preference to delete language that provided examples and mixed substantive questions with the guiding principle the remaining principles have been revised a third time. Deletions are indicated by strike through and additions by underlining.

ORIGINAL PRINCIPLE	REVISED PRINCIPLE
7. Victims shall be notified of the resentencing proceedings if they can be located with reasonable efforts. The judicial decisionmaker may consider any victim impact evidence offered in the original sentencing and victims shall be afforded an opportunity to submit a supplemental impact statement, limited to changed circumstances since the original sentencing. The victim shall also be informed if a restorative justice process is available to them either through local authorities or the Illinois Department of Corrections.	Victims shall be notified of the resentencing proceeding. Authorize the judicial decisionmaker to consider any victim impact evidence offered in the original sentencing, afford the victims an opportunity to submit supplemental impact statements, limited to changed circumstances since the original <u>sentencing</u> . The victims shall also be informed of any restorative justice process that can be made available to them.

COMMENTS:

- Is the limitation to changed circumstances acceptable?
- Is there a way to offer restorative justice once we know someone will be filing so that the process will be complete when the petition is filed? If not, can we put a time limit on how long the process shall take and a decision made?

ORIGINAL PRINCIPLE	REVISED PRINCIPLE
10. There shall be a mechanism for review of decisions under this provision, which may be discretionary or mandatory to ensure the process is fair.	Provide a fair mechanism for the review of resentencing decisions.

COMMENTS:

- Discretionary or mandatory?
- Adding a level of review stretches out the process. However, it does not prevent refiling after a certain time frame.
- Any review process should be clearly defined and have tight parameters to avoid clogging the courts with litigation related to discretionary resentencing for the foreseeable future. Consider how robust the appellate process for post-conviction and 2-1401 petitions are at this point.

ORIGINAL PRINCIPLE	REVISED PRINCIPLE
11. The legislation shall set forth the authority for retroactive application of the resentencing procedure to individuals who were sentenced before its effective date.	The issue of retroactive application of the resentencing procedure should be clearly resolved in legislative language.

COMMENTS:

- What is this attempting to solve? General Assembly has the power to set the temporal reach of legislation – if they make clear their legislative intent, and absent a constitutional prohibition (like ex post facto), that legislative intent must be given effect. See Commonwealth Edison v. Will County, 196 Ill.2d at 39 (Illinois courts follow SCOTUS decision in Landgraf v. USI Film Products, 511 U.S. 244 (1994)).
- Suggest gradual implementation of the legislation that begins with individuals in custody who have served the most time on their sentences.

ORIGINAL PRINCIPLE	REVISED PRINCIPLE
12. Provide for collection of data to support analysis of the process and outcomes of the resentencing process. The court shall provide copies of its orders, both granting and denying relief, to the Sentencing Policy Advisory Council.	Provide for the collection and reporting of data to support analysis of the process and outcomes of the resentencing process <u>motions</u> . Require that judicial decisionmaker provide copies of its orders, both granting and denying relief, to the Sentencing Policy Advisory Council.

COMMENTS:

- There should be some type of coding system through the clerk's office that can be transmitted to the council.

Principles to Guide Resentencing – Previously voted on at the July 15th meeting:

- Principle 1: Provide for judicial determination of whether the purposes of sentencing embodied in the Illinois Constitution and the state would be better served by a modified sentence than the individual's completion of the original sentence based on the current circumstances of the individual and the crime victim, as well as changes in law, policy, and scientific knowledge.
- Principle 2: Authorize a fair, consistent, and proportionate mechanism for judicial review and specify the criteria for eligibility and identify the people or entities that can file petitions for resentencing.
- Principle 3: Specify the parameters under which the right to reapply after initial eligibility shall recur.
- Principle 4: Specify how individuals who are incarcerated shall be notified of the right to file petitions.
- Principle 5: Provide for screening and dismissal of applications that lack merit on their face.
- Principle 6: Provide authority to the judicial decisionmaker to modify any aspect of the original sentence. The time to be served pursuant to the modified sentence cannot exceed the unserved remainder of the original sentence.
- Principle 8: The prosecuting authority shall be properly served with the motion for resentencing and be given a reasonable time in which to respond.
- Principle 9: An adequate record of the proceedings shall be maintained, and the judicial decisionmaker shall be required to state the reasons for its decision in the orders granting or denying relief.