# MINNESOTA JUDICIAL TRAINING UPDATE :

## FELONY SENTENCINGS :

### TWO COMMON MISUNDERSTANDINGS :

**QUESTION:** When the district court commits a defendant to the commissioner of corrections (prison), does the court have authority to include a 'no-contact' order as part of the sentence, (for example: at the request of a terrified victim of a serious sexual or violent offense)?

**ANSWER:** NO – Such an order would be contrary to law. "A district court may not impose a no-contact order [or any other special condition] as part of an executed sentence unless the condition is expressly authorized by statute" *Stevens vs. State, A09-0756, Goodhue County, February 9, 2010; State v. Pugh, 753 N.W.2d 308, 311 (Minn. App. 2008) (holding that no-contact order imposed in first-degree criminal sexual conduct case was not statutorily authorized).*

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**QUESTION:** Can the court sentence a defendant to additional jail time for a probation violation, when he has already served the statutory maximum 12 months in jail, as a condition of his probation?

**ANSWER:** YES: *Minn.Stat.609.135, subd. 4* states "a district court may, as a condition of probation, require the defendant to serve up to one year incarceration in a county jail…..". However, that statute only limits the amount of local jail time the court can impose at one time (12 months); it does not limit the cumulative amount of local jail time that can be imposed as a consequence for defendant's probation violation. (even if the total exceeds one year). *State v. Johnson, 743 N.W.2d 622 (Minn.Ct.App. 2008).*

Hon. Alan F. Pendleton, Anoka County District Court, Anoka, Mn 55303; 763-422-7309