

Minnesota Sentencing Guidelines and Commentary

August 2019 Amendments

This document is a staff compilation of all modifications that the Minnesota Sentencing Guidelines Commission made to the August 1, 2018, edition of the Minnesota Sentencing Guidelines and Commentary. Each modification contained in this compilation has a specified effective date of August 1, 2019.¹

A. Changes Relating to Crimes Created or Amended in 2019

On July 25, 2019, after public hearing, the Commission made changes relating to felony offenses created or amended by the 2019 Minnesota Session Laws.

1. Criminal Sexual Conduct – Actor is Peace Officer

Legislative Act: 2019 Minn. Laws 1st Sp. Sess. [ch. 5](#), art. 4, §§ 7–8

Description: The act amends third- and fourth-degree criminal sexual conduct (CSC) offenses by adding a clause whereby a licensed peace officer commits the crime by engaging in sexual penetration (third-degree CSC) or sexual contact (fourth-degree CSC) with someone who is physically or constructively restrained by the officer, or who does not reasonably feel free to leave the officer’s presence. Consent to the sexual activity is not a defense.

Modifications: The Commission ranked the new third- and fourth-degree CSC offenses consistently with the existing third- and fourth-degree CSC offenses that prohibit sexual conduct by offenders in particular occupational relationships. (By making no changes to the permissive-consecutive list in § 6, the Commission is including the new offense on the list.)

Modifications to 2018 Minn. Sentencing Guidelines §§ 4.B, 5.A, & 5.B:

4.B. Sex Offender Grid

[See consolidated modifications on page 9, below.]

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¹ See Minn. Sentencing Guidelines § 3.G for an explanation of how effective dates are implemented.

5.A. Offense Severity Reference Table

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Severity Level	Offense Title	Statute Number
C	Criminal Sexual Conduct 3rd Degree	609.344, subd. 1(c)(d)(g)(h)(i)(j)(k)(l)(m)(n)(o)(p)

* * *

Severity Level	Offense Title	Statute Number
E	Criminal Sexual Conduct 4th Degree	609.345, subd. 1(c)(d)(g)(h)(i)(j)(k)(l)(m)(n)(o)(p)

* * *

5.B. Severity Level by Statutory Citation

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Statute Number	Offense Title	Severity Level
609.344 subd. 1(c)(d)(g)(h)(i)(j)(k)(l)(m)(n)(o)(p)	Criminal Sexual Conduct 3rd Degree	C

* * *

Statute Number	Offense Title	Severity Level
609.345 subd. 1(c)(d)(g)(h)(i)(j)(k)(l)(m)(n)(o)(p)	Criminal Sexual Conduct 4th Degree	E

* * *

6. Offenses Eligible for Permissive Consecutive Sentences

* * *

Statute Number	Offense Title
609.344, subd. 1	Criminal Sexual Conduct 3rd Degree
609.345, subd. 1	Criminal Sexual Conduct 4th Degree

* * *

2. Child Pornography and Use of Minors in Sexual Performance (Subsequent, by Predatory Offender, or Child Under 13)

Legislative Act: 2019 Minn. Laws 1st Sp. Sess. [ch. 5](#), art. 4, §§ 12–18

Description: The act amends the maximum penalties applicable to Child Pornography and Use of Minors in Sexual Performance when committed by repeat or predatory offenders, or when involving children under age thirteen. Under current law, the maximum imprisonment terms for Child Pornography possession and dissemination increase when committed by repeat or predatory offenders. The act maintains (with some revisions) these two factors and adds a third: the involvement of a child under age thirteen. The act also applies these three factors to increase the statutory maximum imprisonment term for Use of Minors in Sexual Performance. The act adjusts the maximum fines as well. Finally, the act increases, from 10 years to 15 years, the conditional release term applicable to violators of these offenses who had previously been convicted of one of these offenses or of a CSC offense.

Modifications: Pending completion of the Commission’s comprehensive review of the rankings of these offenses,² the Commission maintained existing rankings for those offenses whose maximum imprisonment terms were unchanged. For Child Pornography offenses, the Commission treated the new and amended penalty-increasing factors (now including the involvement of a child under 13) the same as the existing penalty-increasing factors (when committed by repeat or predatory offenders). The Commission assigned Severity Level D to Use of Minors in Sexual Performance when the penalty-increasing factors are present, and included the enhanced offense on the list of offenses eligible for permissive consecutive sentencing. The Commission made terminology consistent, and changed statutory references to conform to the new statutory structure.

Modifications to 2018 Minn. Sentencing Guidelines §§ 2.E.3, 4.B, 5.A, 5.B, and 6; Comment 2.B.105; and Appendix 3:

2.B.105. *If an offense has been repealed, but the elements of that offense have been incorporated into another felony statute, determine the appropriate severity level based on the severity level ranking for the current felony offense containing those similar elements. For example, in 2010, the Legislature recodified violations of domestic abuse no contact orders from Minn. Stat. § 518B.01, subd. 22(d) into Minn. Stat. § 629.75, subd. 2(d). This policy also applies to offenses that are currently assigned a severity level ranking, but were previously unranked and excluded from the Offense Severity Reference Table. For example, ~~possession of pornographic work involving minors~~ dissemination of child*

² See 2019 Minn. Laws 1st Sp. Sess. [ch. 5](#), art. 4, § 22 (requiring the Commission to review and consider modifying how the Guidelines address these crimes as compared to similar crimes, including other sex offenses and other offenses with similar maximum penalties.).

pornography under Minn. Stat. § 617.247, subd. 3(a), was unranked until August 1, 2006. It is currently ranked at Severity Level E, and receives a weight of ~~1½~~ 1½ points.

[2.]E. Mandatory Sentences * * *

3. Conditional Release. Several Minnesota statutes provide for mandatory conditional release terms that must be served by certain offenders once they are released from prison. The court must pronounce the conditional release term when sentencing for the following offenses:

- First-degree (felony) driving while impaired. Minn. Stat. § 169A.276, subd. 1(d).
- Predatory offense registration violation committed by certain offenders. Minn. Stat. § 243.166, subd. 5a.
- Assault in the fourth degree against secure treatment facility personnel. Minn. Stat. § 609.2231, subd. 3a(d).
- First- through fourth-degree criminal sexual conduct and criminal sexual predatory conduct. Minn. Stat. § 609.3455, subds. 6-8.
- Use of minors in a sexual performance. Minn. Stat. § 617.246, subd. 7.
- ~~Possession of pornographic work involving minors.~~ Child pornography. Minn. Stat. § 617.247, subd. 9.

4.B. Sex Offender Grid

[See consolidated modifications on page 9, below.]

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5.A. Offense Severity Reference Table

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Severity Level	Offense Title	Statute Number
D	Dissemination of Child Pornography (Subsequent, ~~or~~ by Predatory Offender, <u>or Child Under 13</u>)	617.247, subd. 3(b)
	<u>Use of Minors in Sexual Performance (Subsequent, by Predatory Offender, or Child Under 13)</u>	<u>617.246, subd. 2(b), 3(b), 4(b)</u>

* * *

Severity Level	Offense Title	Statute Number
E	Use Minors in Sexual Performance	617.246 subd. 2,3,4
	Dissemination of Child Pornography	617.247, subd. 3(a)
	<u>Use of Minors in Sexual Performance</u>	<u>617.246, subd. 2(a), 3(a), 4(a)</u>

* * *

Severity Level	Offense Title	Statute Number
F	Possession of Child Pornography (Subsequent, or by Predatory Offender, <u>or Child Under 13</u>)	617.247, subd. 4(b)

* * *

Severity Level	Offense Title	Statute Number
G	Possession of Child Pornography	617.247, subd. 4(a)

* * *

5.B. Severity Level by Statutory Citation

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Statute Number	Offense Title	Severity Level
617.246 subd. 2(a) 3(a) 4(a)	Use of Minors in Sexual Performance Prohibited	E
617.246 subd. 2(b) 3(b) 4(b)	<u>Use of Minors in Sexual Performance</u> (Subsequent, by Predatory Offender, or Child Under 13)	<u>D</u>
617.247 subd. 3	Dissemination of Pictorial Representation of Minors (Subsequent or by Predatory Offenders)	<u>D</u>
617.247 subd. 3(a)	Dissemination of Pictorial Representation of Minors <u>Child Pornography</u>	E*

Statute Number	Offense Title	Severity Level
<u>617.247 subd. 3(b)</u>	<u>Dissemination of Child Pornography (Subsequent, by Predatory Offender, or Child Under 13)</u>	<u>D</u>
~~617.247 subd. 4~~	~~Possession of Pictorial Representation of Minors (Subsequent or by Predatory Offenders)~~	~~F~~
617.247 subd. 4(a)	Possession of Pictorial Representation of Minors <u>Child Pornography</u>	G
<u>617.247 subd. 4(b)</u>	<u>Possession of Child Pornography (Subsequent, by Predatory Offender, or Child Under 13)</u>	<u>E</u>

* * *

6. Offenses Eligible for Permissive Consecutive Sentences

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Statute Number	Offense Title
~~617.246, subd. 2(a), 3(a), 4(a)~~	~~Use of Minors in Sexual Performance Prohibited~~
~~617.246, subd. 3~~	~~Operation/Owner Use of Minors in Sexual Performance~~
~~617.246, subd. 4~~	~~Dissemination Use of Minors in Sexual Performance~~
<u>617.246, subd. 2(b), 3(b), 4(b)</u>	<u>Use of Minors in Sexual Performance (Subsequent, by Predatory Offender, or Child Under 13)</u>
617.247, subd. 3(a)	Dissemination of ~~Pictorial Representations of Minors~~ <u>Child Pornography</u>
617.247, subd. 3(b)	Dissemination <u>of Child Pornography (Subsequent, by Predatory Offender, or Child Under 13)</u>
617.247, subd. 4(a)	Possession of ~~Pictorial Representations of Minors~~ <u>Child Pornography</u>
617.247, subd. 4(b)	Possession <u>of Child Pornography (Subsequent, by Predatory Offender, or Child Under 13)</u>

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Appendix 3. Presumptive Sentence Durations that Exceed the Statutory Maximum Sentence Reference Table

* * *

Statute	Offense	Severity Level	Statutory Maximum (Months)	Exceeds Statutory Maximum At:
609.776	Interference with Emergency Comm.	5	36 months	CHS 4
617.247, subd. 3(a)	Dissemination of Pictorial Representation of Minors <u>Child Pornography</u>	E	84 months	CHS 5

3. Surreptitious Observation Device (Minor Victim and Sexual Intent)

Legislative Act: 2019 Minn. Laws 1st Sp. Sess. [ch. 5](#), art. 4, § 11

Description: Under existing law, the surreptitious installation or use of an observation device, with intent to intrude upon or interfere with privacy, in a house, hotel room, tanning booth, or other place where a person has an expectation of privacy and has exposed, or is likely to expose, their intimate parts or underwear, is a gross misdemeanor. The crime becomes a felony (ranked at Severity Level 1) if committed against a minor victim when the offender knew or had reason to know the minor was present. The act creates a new felony, with a higher maximum penalty, when such an offense (using a surreptitious observation device against a minor victim) is committed with sexual intent by someone more than 36 months older than the minor victim. The new felony is added to the list of offenses for which persons are required to register as predatory offenders.

Modifications: The Commission assigned the new offense a severity level of G on the Sex Offender Grid, and included the new offense on the list of offenses eligible for permissive consecutive sentencing. The Commission modified Appendix 3 to reflect that the presumptive sentence exceeds the statutory maximum at higher criminal history scores.

Modifications to 2018 Minn. Sentencing Guidelines §§ 4.B, 5.A, 5.B, & 6, and Appendix 3:

4.B. Sex Offender Grid

[This offense is not listed on the Sex Offender Grid (see page 9), because the 2019 Sex Offender Grid, as modified, will display example offenses only. See page 8 (“Style Change to 2019 Sex Offender Grid”).]

5.A. Offense Severity Reference Table

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Severity Level	Offense Title	Statute Number
G	<u>Surreptitious Observation Device (Minor Victim and Sexual Intent)</u>	609.746, subd. 1(f)

* * *

5.B. Severity Level by Statutory Citation

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Statute Number	Offense Title	Severity Level
<u>609.746 subd. 1(f)</u>	<u>Surreptitious Observation Device (Minor Victim and Sexual Intent)</u>	<u>G*</u>

* See section 2.C.2 and Appendix 3 to determine the presumptive duration. Depending on the offender's criminal history score, the presumptive duration may exceed the statutory maximum.

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6. Offenses Eligible for Permissive Consecutive Sentences

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Statute Number	Offense Title
<u>609.746, subd. 1(f)</u>	<u>Surreptitious Observation Device (Minor Victim and Sexual Intent)</u>

* * *

Appendix 3. Presumptive Sentence Durations that Exceed the Statutory Maximum Sentence Reference Table

* * *

Statute	Offense	Severity Level	Statutory Maximum (Months)	Exceeds Statutory Maximum At:
<u>609.746, subd. 1(f)</u>	<u>Surreptitious Observation Device (Minor Victim and Sexual Intent)</u>	<u>G</u>	<u>48</u>	<u>CHS 5</u>

[STYLE CHANGE TO 2019 SEX OFFENDER GRID: The Commission modified the Sex Offender Grid to show example offenses only, like the Standard Grid and the Drug Offender Grid. The Commission also added plain-language examples of criminal sexual conduct to improve comprehension. Those changes begin on page 9, which follows.]

4.B. Sex Offender Grid

Presumptive sentence lengths are in months. Italicized numbers within the grid denote the discretionary range within which a court may sentence without the sentence being deemed a departure. Offenders with stayed felony sentences may be subject to local confinement.

SEVERITY LEVEL OF CONVICTION OFFENSE (Example offenses listed in <i>italics</i>)		CRIMINAL HISTORY SCORE						
		0	1	2	3	4	5	6 or more
<i>Criminal Sexual Conduct (CSC) 1st Degree</i>	A	144 144-172	156 144-187	168 144-201	180 153-216	234 199-280	306 261-360	360 306-360 ²
<i>CSC 2nd Degree–1(c)(d)(e)(f)(h) (e.g., contact, force, & injury) Prostitution; Sex Trafficking³ 1st Degree–1(a)</i>	B	90 90 ³ -108	110 94-132	130 111-156	150 128-180	195 166-234	255 217-300	300 255-300 ²
<i>CSC 3rd Degree–1(c)(d)(g)(h)(i) (j)(k)(l)(m)(n)(o)(p) (e.g., penetration & force/occupation) Prostitution; Sex Trafficking 2nd Degree–1a</i>	C	48 41-57	62 53-74	76 65-91	90 77-108	117 100-140	153 131-180	180 153-180 ²
<i>CSC 2nd Degree–1(a)(b)(g) (e.g., contact & victim under 13) CSC 3rd Degree–1(a)(e)(f) or 1(b) with ref. to subd. 2(1) (e.g., penetration & child victim) Dissemination of Child Pornography (Subsequent or by Predatory Offender)</i>	D	36	48	60 51-72	70 60-84	91 78-109	119 102-142	140 119-168
<i>CSC 4th Degree–1(c)(d)(g)(h)(i) (j)(k)(l)(m)(n)(o)(p) (e.g., contact & force/occupation) Use Minors in Sexual Performance Dissemination of Child Pornography²</i>	E	24	36	48	60 51-72	78 67-93	102 87-120	120 102-120 ²
<i>CSC 4th Degree–1(a)(b)(e)(f) (e.g., contact & child victim) CSC 5th Degree Possession of Child Pornography (Subseq./Pred. Off./Under 13) (Subsequent or by Predatory Offender)</i>	F	18	27	36	45 39-54	59 51-70	77 66-92	84 72-100
<i>CSC 3rd Degree–1(b) with subd. 2(2) (i.e., penetration & child victim 24–48 mo. younger) Indecent Exposure Possession of Child Pornography Solicit Child for Sexual Conduct²</i>	G	15	20	25	30	39 34-46	51 44-60	60 51-60 ²
<i>Registration Of Failure to Register as a Predatory Offenders</i>	H	12 ¹ 12 ¹ -14	14 12 ¹ -16	16 14-19	18 16-21	24 21-28	30 26-36	36 31-43

¹ 12¹=One year and one day



Presumptive commitment to state imprisonment. Sex offenses under Minn. Stat. § 609.3455, subd. 2, have mandatory life sentences and are excluded from the Guidelines. See section 2.E, for policies regarding those sentences controlled by law, including conditional release terms for sex offenders.



Presumptive stayed sentence; at the discretion of the court, up to one year of confinement and other non-jail sanctions can be imposed as conditions of probation. However, certain offenders in the shaded area of the Grid may qualify for a mandatory life sentence under Minn. Stat. § 609.3455, subd. 4. See sections 2.C and 2.E.

² Minn. Stat. § 244.09 requires that the Guidelines provide a range for sentences that are presumptive commitment to state imprisonment of 15% lower and 20% higher than the fixed duration displayed, provided that the minimum sentence is not less than one year and one day and the maximum sentence is not more than the statutory maximum. See section 2.C.1—2.

³ Solicits, Promotes, or Receives Profit Derived from Prostitution; Sex Trafficking 1st Degree is not subject to a 90-month minimum statutory presumptive sentence so the standard range of 15% lower and 20% higher than the fixed duration applies. (The range is 77—108.)

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4. Wage Theft

Legislative Act: 2019 Minn. Laws 1st Sp. Sess. [ch. 7](#), art. 3, §§ 14–16

Description: The act amends the theft statute to include Wage Theft. The new offense is listed among those select theft offenses whose violators may, if the value of the property stolen exceeds \$35,000, be sentenced to a maximum penalty of 20 years in prison and a fine of \$100,000.

Modifications: The Commission ranked Wage Theft at Severity Level 2 (\$5,000 or Less), Severity Level 3 (Over \$5,000), and Severity Level 6 (Over \$35,000). The Commission added Wage Theft to the Theft Offense List.

Modifications to 2018 Minn. Sentencing Guidelines §§ 5.A, 5.B, and 7:

5.A. Offense Severity Reference Table

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Severity Level	Offense Title	Statute Number
6	Theft Over \$35,000	609.52, subd. 2(a)(3), (4), (15), & (16), & (19) with 609.52, subd. 3(1)

* * *

Severity Level	Offense Title	Statute Number
3	Theft Crimes – Over \$5,000	See section 7: Theft Offense List

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Severity Level	Offense Title	Statute Number
2	~~Theft Crimes – \$5,000, or Less~~ Theft Crimes – \$5,000 or Less	See section 7: Theft Offense List

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5.B. Severity Level by Statutory Citation

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Statute Number	Offense Title	Severity Level
<u>609.52 subd. 2(a)(19) with subd. 3(1)</u>	<u>Wage Theft (Over \$35,000)</u>	<u>6</u>
<u>609.52 subd. 2(a)(19)</u>	<u>Wage Theft (\$5,001–\$35,000)</u>	<u>3</u>
<u>609.52 subd. 2(a)(19)</u>	<u>Wage Theft (\$5,000 or Less)</u>	<u>2</u>

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7. Theft Offense List

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Statute Number	Offense Title
<u>609.52 subd. 2(a)(19)</u>	<u>Wage Theft</u>

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5. Harassment and Stalking Terminology Change

Legislative Act: 2019 Minn. Laws 1st Sp. Sess. [ch. 5](#), art. 2, § 17–21 & 26.

Description: In Minn. Stat. § 609.749 (Stalking), the term “stalking” or “stalks” is changed to “harass,” “harassment,” or “harasses.” “Pattern of stalking conduct” is changed to “stalking.”

Modifications: The Commission made conforming changes and deleted erroneous references to a second “or Subsequent” offense (because the offense subsequent to a second offense is a third offense, ranked separately).

Modifications to 2018 Minn. Sentencing Guidelines §§ 5.A, 5.B, § 6, and Comment 2.D.308:

2.D.308. The aggravating factor involving bias motivation under section 2.D.3.b(11) cannot be used when sentencing an offender for a crime with an increased statutory maximum penalty under Minn. Stat. § 609.2233 (felony assault motivated by bias), or for a crime that was elevated to a felony offense because of bias motivation (e.g., Minn. Stat. §§ 609.2231, subd. 4 (fourth-degree assault); 609.595, subd. 1a(a) (criminal damage to property); 609.749, subd. 3(a)(1) (~~stalking~~ harassment)). The Commission intends that a penalty for a bias-motivated offense be subject to enhancement only once.

5.A. Offense Severity Reference Table

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Severity Level	Offense Title	Statute Number
5	~~Stalking Harassment~~ (3rd or Subsequent Violations)	609.749, subd. 4(b)
	Stalking (~~Pattern of Stalking Conduct~~)	609.749, subd. 5
4	~~Stalking Harassment~~ (Aggravated Violations)	609.749, subd. 3(a),(b)
	~~Stalking Harassment~~ (2nd or Subsequent Violation)	609.749, subd. 4(a)

* * *

5.B. Severity Level by Statutory Citation

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Statute Number	Offense Title	Severity Level
609.749, subd. 3(a)(b)	~~Stalking Harassment~~ (Aggravated Violations)	4
609.749, subd. 4(a)	~~Stalking Harassment~~ (2nd or Subsequent Violation)	4
609.749, subd. 4(b)	~~Stalking Harassment~~ (3rd or Subsequent Violations)	5
609.749, subd. 5	Stalking (~~Pattern of Conduct~~)	5

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6. Offenses Eligible for Permissive Consecutive Sentences

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Statute Number	Offense Title
609.749, subd. 3	~~Stalking Harassment~~ (Aggravated Violations)
609.749, subd. 4	~~Stalking Harassment~~ (Subsequent Violations)
609.749, subd. 5	Stalking (~~Pattern of Conduct~~)

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B. Changes to Criminal History Score Calculation & Creation of Second or Subsequent Severe Violent Offense Modifier

On December 20, 2018, after public hearing, the Minnesota Sentencing Guidelines Commission adopted and submitted to the Legislature³ several modifications to the 2018 Minnesota Sentencing Guidelines and Commentary changing the calculation of the criminal history score and adding a sentencing enhancement for second or subsequent severe violent offenses. On July 25, 2019, after public hearing, the Commission made a small number of amendments to those modifications. The December modifications, as amended in July, are shown below; the presence of each July amendment is indicated with a footnote.

Modifications to 2018 Minn. Sentencing Guidelines §§ 1.B, 2.B, 2.G, and 8, and the appendices:

The Minnesota Sentencing Guidelines Commission intends to make the following modifications to the Minnesota Sentencing Guidelines and Commentary on August 1, 2019, unless the Legislature by law provides otherwise. Each modification is intended to apply to offenders whose date of offense is on or after August 1, 2019. See State v. Otto, 899 N.W.2d 501, 503 (Minn. 2017) (describing language sufficient to abrogate the amelioration doctrine).

[1.]B. Definitions * * *

14. Sentence Modifier. A "sentence modifier" is a statute or policy that aids in defining the punishment for the underlying offense. A sentence modifier can affect either or both the duration and the disposition of the presumptive sentence. See section 2.G for policies relating to determining the presumptive sentence for offenses that include a sentence modifier. * * *

[2.]B. Criminal History * * *

1. Prior Felonies. * * *

³ The Commission submitted these proposed modifications to the Legislature January 11, 2019. Minn. Sentencing Guidelines Comm'n, *Report to the Legislature* (Jan. 11, 2019). Retrieved July 26, 2019, at <https://go.usa.gov/xysku>. The Legislature took no action to provide that the changes should not take effect. See Minn. Stat. § 244.09, subd. 11.

- c. Felony Decay Factor. In computing the criminal history score, a ~~A~~ prior felony sentence or stay of imposition following a felony conviction must not be used ~~in computing the criminal history score~~ if a period of fifteen years has elapsed since the ~~date of discharge from or expiration of the sentence to~~ all of the following, to the extent applicable, occurred before the date of the current offense;
- (1) the prior felony sentence or stay of imposition expired or was discharged;
 - (2) a period of fifteen years elapsed after the date of the initial sentence following the prior conviction; and
 - (3) if the prior felony sentence was executed, a period of fifteen years elapsed after the date of expiration of the sentence. * * *

2.B.113. *The Commission established a "decay factor" for the consideration of prior felony offenses in computing criminal history scores. The Commission decided it was important to consider not just the total number of felony sentences and stays of imposition, but also the age of the sentences and stays of imposition. The Commission decided that the presence of old felony sentences and stays of imposition should not be considered in computing criminal history scores after a significant period of time has elapsed. A prior felony sentence or stay of imposition ~~will~~ would not be counted in criminal history score computation if fifteen years ~~has had~~ has elapsed from the prior sentencing date (or from the date the prison sentence, if executed, expired) ~~date of discharge or expiration of that sentence or stay of imposition~~ to the date of the current offense, provided the offender was then no longer on supervision for the prior sentence. If the offender received a stay of imposition for the prior offense, that sentencing date marks "the date of the initial sentence," even if a stay of execution subsequently occurred as the result of, e.g., a probation violation. While this procedure does not include a measure of the offender's subsequent criminality, it has the overriding advantage of accurate and simple application, while also ensuring that prison offenses do not decay before probation offenses. * * **

2. Custody Status at the Time of the Offense.

- a. One or One-Half Custody Status Point. Assign **one** custody status point when the conditions in paragraphs (1), (2), and (3)(ii) or (iii) are met. In all other cases when the conditions in paragraphs (1) through (3) are met, assign **one-half** custody status point:

- (1) The offender was under one of the following custody statuses at the time the current offense was committed:
- (i) probation;
 - (ii) parole;
 - (iii) supervised release;
 - (iv) conditional release following release from an executed prison sentence (see conditional release terms listed in section 2.E.3);
 - (v) release pending sentencing;
 - (vi) confinement in a jail, workhouse, or prison pending or after sentencing; or
 - (vii) escape from confinement following an executed sentence.
- (2) The offender was under one of the custody statuses in paragraph (1) after entry of a guilty plea, guilty verdict, or conviction. ~~This includes a guilty plea for an offense under Minn. Stat. § 152.18, subd. 1.~~
- (3) The offender was under one of the custody statuses in paragraph (1) for one of the following:
- (i) a felony currently assigned a severity level ranking, on the Offense Severity Reference Table, of 1 or 2 on the Standard Grid or D1 or D2 on the Drug Offender Grid, a felony from a jurisdiction other than Minnesota equivalent to an offense currently ranked at one of those severity levels, or an extended jurisdiction juvenile (EJJ) conviction for an offense currently ranked at one of those severity levels;
 - (ii) any other felony;
 - (iii) any other extended jurisdiction juvenile (EJJ) conviction;
 - (iv) a non-traffic gross misdemeanor;
 - (v) gross misdemeanor driving while impaired, refusal to submit to a chemical test, or reckless driving; or
 - (vi) a targeted misdemeanor.
- (4) ~~Early Discharge from Probation. Assign a custody point if the offender is discharged from probation but commits an offense within the initial period of probation pronounced by the court. **Do not** assign a point if probation is revoked and the offender serves an executed sentence.~~

~~(4)~~(5) Assigning Points to Offenses Committed Over Time. Assign a ~~one~~ or one-half custody status point when the offender meets the conditions in paragraphs (1) through (3) and the offender was placed under one of the custody statuses in paragraph (1) at any point in time during which the offense occurred when:

- (i) multiple offenses are an element of the conviction offense; or
- (ii) the conviction offense is an aggregated offense. * * *

c. Additional Duration. An **additional three months** must be added to the duration of the appropriate cell time, which then becomes the presumptive duration, when:

- (1) at least one-half custody status point is assigned; and
- (2) the offender's total Criminal History Score exceeds the maximum score on the applicable Grid (i.e., 7 or more). * * *

e. Waiver. Subject to the limitations in paragraph (4) below, the court, on its own motion or on the motion of a party, may, but is not required to, waive assignment of a custody status point or half-point pursuant to section 2.B.2, provided the offender establishes that granting a waiver is consistent with public safety. Specifically, the court has the discretion, but is not required, to grant a waiver if the offender establishes that waiver is consistent with public safety and promotes the traditional purposes of sentencing which are retribution, incapacitation, deterrence, restitution, and rehabilitation. See Minn. Stat. § 244.09. In considering rehabilitation, the court may examine the following:

- (1) Whether the offender has consistently utilized available probation services, such as drug, alcohol, and psychological treatment services, and has otherwise been in substantial compliance with the conditions of probation, parole, or conditional or supervised release, apart from the commission of the current offense, for the past twelve months;
- (2) Whether the current offense represents an escalation of criminal activity; and
- (3) Whether the offender has made any progress toward rehabilitation and reentry into society, such as additional education and/or vocational training.

- (4) The court may not, however, waive assignment of a custody status point or half-point if either the current offense or a custody status offense is any of the following offenses, including an equivalent felony offense from a jurisdiction other than Minnesota. As used within this paragraph, "custody status offense" means a prior offense resulting in a custody status that caused the offender to qualify for a custody status point as described in section a, above.
- (i) an offense currently assigned a severity level ranking, on the Offense Severity Reference Table, of 8, 9, 10, or 11 on the Standard Grid;
 - (ii) an offense on the Sex Offender Grid other than Failure to Register as a Predatory Offender (Minn. Stat. § 243.166);
 - (iii) an offense currently assigned a severity level ranking, on the Offense Severity Reference Table, of D8 or D9 on the Drug Offender Grid;
 - (iv) an offense listed in section⁴ 8, Severe Violent Offense List;
 - (v) Fleeing Peace Officer (Great Bodily Harm) (Minn. Stat. § 609.487, subd. 4(b));
or
 - (vi) an attempt or conspiracy to commit one of these offenses.

Comment

2.B.201. *The basic rule assigns offenders one or one-half point if they were under some form of eligible criminal justice custody status when they committed the offense for which they are now being sentenced.*

2.B.202. *The Commission intended to avoid criminal history scores in which a prior offense's custody status point outweighed the criminal history of the prior offense itself. Accordingly, when the criminal history weight of a prior felony is one-half point (but excluding severity level H offenses; see generally section 2.B.1) or the prior gross misdemeanor or misdemeanor contributes one or two misdemeanor units (see section 2.B.3), the custody status from that prior offense results in one-half, rather than one, custody status point. ~~The Commission determined that the potential for a custody status point should remain for the entire period of the probationary sentence. If an offender receives an initial term of probation that is definite, is released from probation prior to the expiration of that term and commits a new crime within the initial term, it is clear that a custody point will be assigned. For example, if the offender is put on probation for five years, is released from probation in three years, and commits a new crime in year four, at least one custody status point will be added to the offender's criminal history. When the offender is given an indefinite initial term of probation and commits a new crime at any time prior to the end date of the pronounced range, the offender will be assigned a custody status point. Thus, an initial term of~~*

⁴ The Commission changed this word to lowercase on July 25, 2019.

~~probation "not to exceed three years" is, for this purpose, three years; "three to five years" is five years; "up to the statutory maximum" is the statutory maximum. If probation is revoked and the offender serves an executed prison sentence for the prior offense, eligibility for the custody status point ends with discharge from the sentence.~~

2.B.203. In determining whether to grant a waiver in a particular case, the primary consideration is public safety. In this context, public safety means protecting the public from crime. The court should consider the values of retribution, incapacitation, deterrence, restitution and rehabilitation. In doing so, the court should apply a balanced approach in which all five values are examined and applied. For rehabilitation, the court may also consider the three factors listed in section 2.B.2.e in order to examine the whole person. When custody status is waived, the presumptive sentence will be calculated without the addition of the waived custody status point, or half-point, in the criminal history score. Thus, provided the processes of section 2.B.2.e are followed, granting a waiver of custody status for the current offense does not, in itself, constitute a departure from the Sentencing Guidelines. Probation given for an offense under Minn. Stat. § 152.18, subd. 1, will result in the assignment of a custody status point because a guilty plea has previously been entered and the offender has been on a probationary status.

* * *

3. Prior Gross Misdemeanors and Misdemeanors. Prior gross misdemeanor and misdemeanor convictions count as units comprising criminal history points. Four units equal one criminal history point; give no partial point for fewer than four units. Determine units as specified in this section.
 - a. General Assignment of Units. ~~Except as provided in paragraph g, if the current conviction is for an offense other than criminal vehicular homicide or operation or felony driving while impaired (DWI),~~ assign the offender one unit for each prior conviction of the following offenses provided the offender received a stayed or imposed sentence or stay of imposition for the conviction before the current sentencing:
 - (1) targeted misdemeanor, as defined in Minn. Stat. § 299C.10, subd. 1(e);
 - (2) non-traffic gross misdemeanor;
 - (3) gross misdemeanor driving while impaired;
 - (4) gross misdemeanor refusal to submit to a chemical test;
 - (5) gross misdemeanor reckless driving;
 - (6) a felony conviction resulting in a misdemeanor or gross misdemeanor sentence.

* * *

- e. Decay Factor. A prior misdemeanor or gross misdemeanor sentence or stay of imposition following a misdemeanor or gross misdemeanor conviction must **not** be used in computing the criminal history score if ten years ~~has~~ have⁵ elapsed between the date of⁶ ~~discharge from or expiration of the initial sentence following the prior conviction~~ and the date of the current offense. However, misdemeanor sentences that result from the successful completion of a stay of imposition for a felony conviction are subject to the felony decay factor in section 2.B.1.c.

* * *

2.B.304. *The Commission believes that offenders whose current conviction is for criminal vehicular homicide or operation or first-degree (felony) driving while impaired, and who have prior violations under Minn. Stat. §§ 169A.20, 169A.31, 169.121, 169.1211, 169.129, 360.0752, 609.2112, 609.2113, or 609.2114 are also more culpable, and for these offenders there is no limit to the total number of misdemeanor points included in the criminal history score due to DWI or criminal vehicular homicide or operation (CVO) violations. To determine the total number of misdemeanor points under these circumstances, first add together any non DWI/CVO misdemeanor units. If there are less than four units, add in any DWI/CVO units. Four or more units would equal one point. Only DWI/CVO units can be used in calculating additional points. Each set of four DWI/CVO units would equal an additional point. For example, if an offender had two theft units and six DWI/CVO units, the theft would be added to the two DWI/CVO units to equal one point. The remaining four DWI/CVO units would equal a second point. In a second example, if an offender had six theft units and six DWI/CVO units, the first four theft units would equal one point. Four of the DWI/CVO units would equal a second point. The remaining two theft units could not be added to the remaining two DWI/CVO units for a third point. The total misdemeanor score would be two.* * * *

[2.]G. Convictions for Attempts, Conspiracies, and Other Sentence Modifiers

1. In General. Sentence modifiers are statutes or policies that aid in defining the punishment for the underlying offense. Modifiers can affect either or both the duration and the disposition of the presumptive sentence. Any change to the presumptive fixed sentence under this section must also be applied to the upper and lower ends of the range found in the appropriate cell on the applicable Grid, except that the presumptive

⁵ To achieve subject-verb agreement, the Commission changed this word on July 25, 2019.

⁶ The Commission restored this inadvertently stricken word on July 25, 2019.

sentence cannot be less than one year and one day, nor can it be less than any applicable mandatory minimum. * * *

14. Second or Subsequent Severe Violent Offense.

a. The following definitions apply to this section:

- (1) A "severe violent offense" is an offense listed in section⁷ 8, Severe Violent Offense List. "Severe violent offense" includes attempt or conspiracy, and includes an equivalent felony from a jurisdiction other than Minnesota, as outlined in section 2.B.5 (Convictions from Jurisdictions other than Minnesota).⁸ A current offense is not a "severe violent offense" if section 2.E.4 (Mandatory Life Sentences) applies.
 - (2) "Second or subsequent severe violent offense" means that prior to the commission of current severe violent offense, the offender has been adjudicated guilty of one or more severe violent offenses.
 - (3) A "prior severe violent offense conviction" is an adjudication that qualifies the current offense as a second or subsequent severe violent offense. A conviction for an offense excluded from criminal history score computation under section 2.B.1.c (Felony Decay Factor) does not qualify as a "prior severe violent offense conviction." A conviction that resulted in a non-felony sentence (see section 2.B.1.h) does not qualify as a "prior severe violent offense conviction" if the non-felony sentence was imposed before the current offense date.⁹
- b. If the current offense is a second or subsequent severe violent offense, the presumptive fixed sentence for the current offense, as determined in section 2.C, shall increase by the number of months corresponding, in the following table, to the number of prior severe violent offense convictions, provided that:
- (1) If the current severe violent offense is an attempt under Minn. Stat. § 609.17 or conspiracy under Minn. Stat. § 609.175, the increase shall be one-half the number of months stated; and

⁷ The Commission changed this word to lowercase on July 25, 2019.

⁸ The Commission added a clarifying clause after the preceding comma on July 25, 2019.

⁹ The Commission added this clarifying sentence on July 25, 2019.

- (2) This section shall not apply to a presumptive or permissive consecutive sentence pursuant to section 2.F.

<u>NUMBER OF PRIOR SEVERE VIOLENT OFFENSE CONVICTIONS</u>	<u>MONTHS</u>
<u>1</u>	<u>12</u>
<u>2</u>	<u>18</u>
<u>3 or more</u>	<u>24</u>

* * *

2.G.03. *While the Commission recognizes the enhanced punishments available in the existing dangerous offender law (Minn. Stat. § 609.1095, subd. 2 and 3), it is also aware of the limited scope of those provisions, which, in practice, rarely result in enhanced sentences. It views the establishment of an automatic sentence modifier applicable to second or subsequent severe violent offenses as being necessary to protect the public from crime and thereby to promote public safety. The term "second or subsequent severe violent offense" incorporates the statutory term "second or subsequent offense" (Minn. Stat. § 609.02, subd. 11).*

* * *

8. Severe Violent Offense List

Each of the following is a "severe violent offense" within the meaning of sections 2.B.2.e and 2.G.14. Attempt or conspiracy is included, as is an equivalent felony from a jurisdiction other than Minnesota.

<u>Statute Number</u>	<u>Offense Title</u>
<u>609.185</u>	<u>Murder 1st Degree</u>
<u>609.19</u>	<u>Murder 2nd Degree</u>
<u>609.195(a)</u>	<u>Murder 3rd Degree (Depraved Mind)</u>
<u>609.221</u>	<u>Assault 1st Degree</u>
<u>609.222, subd. 2</u>	<u>Assault 2nd Degree (Dangerous Weapon, Substantial Bodily Harm)</u>
<u>609.245, subd. 1</u>	<u>Aggravated Robbery 1st Degree</u>
<u>609.25, subd. 2(2)</u>	<u>Kidnapping (Great Bodily Harm/Unsafe Release/Victim Under 16)</u>
<u>609.2661</u>	<u>Murder of an Unborn Child 1st Degree</u>
<u>609.2662</u>	<u>Murder of an Unborn Child 2nd Degree</u>

<u>Statute Number</u>	<u>Offense Title</u>
<u>609.2663</u>	<u>Murder of an Unborn Child 3rd Degree</u>
<u>609.282</u>	<u>Labor Trafficking</u>
<u>609.342, subd. 1(c)(d)(e)(f)</u>	<u>Criminal Sexual Conduct 1st Degree</u>
<u>609.343, subd. 1(c)(d)(e)(f)</u>	<u>Criminal Sexual Conduct 2nd Degree</u>
<u>609.498, subd. 1b</u>	<u>Tampering with Witness, Aggravated 1st Degree</u>
<u>609.561, subd. 1 or 2</u>	<u>Arson 1st Degree</u>
<u>609.66, subd. 1e(b)</u>	<u>Drive-By Shooting (Toward a Person or Occupied Motor Vehicle or Building)</u>

* * *

Appendix 4. 8. Targeted Misdemeanor List

Directive to MSGC staff: The existing section 8, Targeted Misdemeanor List, shall be restyled as Appendix 4, Targeted Misdemeanor List, and moved to the end of the Minnesota Sentencing Guidelines and Commentary.

C. Changes to Clarify Effective Dates

On July 25, 2019, after submission to the Legislature and public hearing,¹⁰ the Commission adopted the following modifications to section the 2018 Minnesota Sentencing Guidelines and Commentary to clarify that Guidelines modifications generally apply to offenses committed on or after the effective date of the modification. This action was taken in light of *State v. Kirby*, 899 N.W.2d 485 (Minn. 2017).

Modifications to 2018 Minn. Sentencing Guidelines § 3.G:

[3.]G. Modifications

1. Policy Modifications. Modifications to sections 1 through 8 of the Minnesota Sentencing Guidelines, and associated commentary and appendices, apply to offenders whose date of offense is on or after the specified modification effective date.
2. Clarifications of Existing Policy. Modifications to ~~C~~commentary and appendices relating to existing Guidelines policy apply to offenders sentenced on or after the specified effective date.

¹⁰ The Commission adopted these proposed modifications December 20, 2018, and submitted them to the Legislature January 11, 2019. Minn. Sentencing Guidelines Comm’n, *Report to the Legislature* (Jan. 11, 2019). Retrieved July 26, 2019, at <https://go.usa.gov/xysku>. The Legislature took no action to provide that the changes should not take effect. See Minn. Stat. § 244.09, subd. 11. The modifications were the subject of a public hearing on July 18, 2019, and were finally adopted July 25, 2019.

D. Other Non-Legislative Amendments to the Guidelines

On July 25, 2019, after public hearing, the Commission adopted the following modifications to the 2018 Minnesota Sentencing Guidelines and Commentary.

1. Reconcile Conflicts Regarding Offenses Committed while Under Sentence

Modifications: The Commission reconciled policy conflicts regarding offenses committed while under sentence, and, specifically, to clarify the application of consecutive sentencing policy to offenses, such as Escape from Electronic Monitoring, committed while under sentence.

Modifications to 2018 Minn. Sentencing Guidelines §§ 2.C.3.e, 2.F.1.b, & 2.F.2.a(2)(i); Comment 2.F.102; and Appendix 1:

[2.]C. Presumptive Sentence * * *

3. Finding the Presumptive Sentence for Certain Offenses. * * *

- e. Offenses Committed While Under State Authority. The presumptive disposition for escape from an executed sentence, felony assault committed by an inmate serving an executed term of imprisonment, or assault on secure treatment facility personnel is commitment. ~~It~~ Pursuant to section 2.F.1, it is presumptive for escape from an executed sentence term of imprisonment and for felony assault committed by an inmate serving an executed term of imprisonment to be sentenced consecutively to the offense for which the inmate was confined. The presumptive duration is determined by the presumptive sentencing consecutive policy (see section 2.F.1, Presumptive Consecutive Sentences). * * *

[2.]F. Concurrent/Consecutive Sentences * * *

1. Presumptive Consecutive Sentences. * * *

- b. Finding the Presumptive Disposition. ~~The presumptive disposition for an escape from an executed sentence or for a felony assault committed by an inmate serving an executed term of imprisonment is always commitment. In all other cases, the~~ The presumptive disposition is determined using the criteria in section 2.C. The presumptive disposition for an escape from an executed sentence or for a felony

assault committed by an inmate serving an executed term of imprisonment is always commitment. * * *

2.F.102. *When the court pronounces presumptive consecutive sentences for multiple offenses, each new offense will be sentenced at a Criminal History Score of 1. The new offenses will run concurrently to each other, but consecutive to the prior offense.*

For example, an offender is convicted of Escape from Custody and First-Degree Burglary of an Occupied Dwelling following escape from an executed ~~sentence~~ term of imprisonment. The term of imprisonment remaining on the original offense from which the offender escaped is 18 months. Each of the new offenses will have a presumptive consecutive sentence duration found at a Criminal History Score of 1: Escape from Custody (Severity Level 3), 13 months; Burglary (Severity Level 6), 27 months. The two sentences will run concurrently to each other, and the longer of the two durations will be added to the time remaining on the original term of imprisonment (here, 27 months will be added to the time remaining on the original 18-month sentence). Aggregated, the new presumptive consecutive sentence duration is 45 months.

2. Permissive Consecutive Sentences.

- a. Criteria for Imposing a Permissive Consecutive Sentence. Consecutive sentences are permissive (may be given without departure) only in the situations specified in this section. * * *

(2) Other Offenses. Consecutive sentences for the following offenses are always permissive and there is no dispositional departure if the sentences are executed.

- (i) Felony Escape. If the offender is convicted of felony escape from lawful custody – as defined in Minn. Stat. § 609.485 – and the offender did not escape from an executed ~~prison-sentence~~ term of imprisonment, disciplinary confinement, or reimprisonment (see section 2.F.1.a(1)(ii)), the escape may be sentenced consecutively to the sentence for which the offender was confined.

* * *

Appendix 1. Mandatory and Presumptive Sentences Reference Table

* * *

Statute	Offense	Prerequisite or Conditions	Minimum Duration
609.485	Escape	~~Offense committed during "Term of Imprisonment" portion of~~ <u>Escape</u> ~~from~~ executed sentence	Grid Time

* * *

2. Clarify Prior Felony Resulting in Non-Felony Sentence

Modifications: The Commission eliminated the ambiguity identified in *State v. Stewart*, 923 N.W.2d 668, 677–80 (Minn. Ct. App. 2019), *review denied* (Minn. Apr. 16, 2019), by deleting the first clause of § 2.B.1.h.

Modifications to 2018 Minn. Sentencing Guidelines § 2.B.1.h:

[2.]B. Criminal History * * *

1. Prior Felonies. * * *

- h. Non-Felony Sentence. ~~Except when a monetary threshold determines the offense classification of the prior offense (see section 2.B.7), w~~When a prior felony conviction resulted in a non-felony sentence (misdemeanor or gross misdemeanor), the conviction must be counted in the criminal history score as a misdemeanor or gross misdemeanor conviction as indicated in section 2.B.3. * * *

E. Technical Amendments to the Guidelines

On July 25, 2019, the Commission adopted the following technical modifications to the 2018 Minnesota Sentencing Guidelines and Commentary.

1. Correct Cross-References in Comment

Modifications: The Commission corrected the erroneous cross-reference in Comment 2.B.107.

Modification to 2018 Minn. Sentencing Guidelines Comment 2.B.107:

2.B.107. *In cases of multiple offenses occurring in a single course of conduct in which state law prohibits the offender from being sentenced on more than one offense, only the offense at the highest severity level should be considered. The phrase “before the current sentencing” means that in order for prior convictions to be used in computing the criminal history score, the felony sentence for the prior offense must have been stayed or imposed before sentencing for the current offense. When multiple current offenses are sentenced on the same day before the same court, sentencing must occur in the order in which the offenses occurred. The dates of the offenses must be determined according to the procedures in section ~~2A. 2.~~*

2. Clarify Examples on Standard Sentencing Grid

Modifications: The Commission clarified the Standard Sentencing Grid, adding to the example offense of murder in the third degree listed at Severity Level 10, “(Depraved Mind)”; listing “Murder, 3rd Degree (Controlled Substances)” as an example offense at Severity Level 9; and making consistent stylistic changes to example offenses listed at severity levels 9, 10 and 11.

Modifications to 2018 Minn. Sentencing Guidelines § 4.A:

4.A. Sentencing Guidelines Grid

* * *

CRIMINAL HISTORY SCORE

SEVERITY LEVEL OF CONVICTION OFFENSE (Example offenses listed in <i>italics</i>)		0	1	2	3	4	5	6 or more
~~Murder, 2nd Degree~~ ~~(Intentional murder; dDrive- bBy-sShootings)~~	11	306 261-367	326 278-391	346 295-415	366 312-439	386 329-463	406 346-480 ²	426 363-480 ²
~~Murder, 3rd Degree~~ Murder, 2nd Degree (~~uUnintentional murder~~) Murder, 3rd Degree (Depraved Mind)	10	150 128-180	165 141-198	180 153-216	195 166-234	210 179-252	225 192-270	240 204-288

<u>Murder, 3rd Degree (Controlled Substances)</u> Assault, 1st Degree	9	86 74-103	98 84-117	110 94-132	122 104-146	134 114-160	146 125-175	158 135-189
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* * *

3. Strike Reference to Specific Statute Year

Modifications: The Commission deleted an unnecessary reference to a particular year's edition of Minnesota Statutes, as such references are not consistent with the Guidelines style.

Modification to 2018 Minn. Sentencing Guidelines § 2.D.3.a(8):

[2.]D. Departures from the Guidelines * * *

[3.a.](8) In the case of a controlled substance offense conviction, the offender is found by the district court to be particularly amenable to probation based on adequate evidence that the offender is chemically dependent and has been accepted by, and can respond to, a treatment program in accordance with Minn. Stat. § 152.152-(2014).

4. Correct Statute Citation – Theft of Services (Over \$5,000)

Modifications: The Commission corrected the citation for “Theft of Services (Over \$5,000)” in § 5.B, which listed the wrong numbered clause.

Modification to 2018 Minn. Sentencing Guidelines § 5.B:

5.B. Severity Level by Statutory Citation

* * *

Statute Number	Offense Title	Severity Level
609.52 subd. 2(a)(12)(13)	Theft of Services (Over \$5,000)	3
609.52 subd. 2(a)(13)	Theft of Services (\$5,000 or Less)	2

* * *

5. Correct Statute Citation – Financial Transaction Card Fraud (Over \$35,000)

Modifications: The Commission changed the citation for Financial Transaction Card Fraud (Over \$35,000) to conform to the current statutory structure.¹¹

Modifications to 2018 Minn. Sentencing Guidelines §§ 5.A and 5.B:

5.A. Offense Severity Reference Table

* * *

Severity Level	Offense Title	Statute Number
5	Financial Transaction Card Fraud (Over \$35,000)	609.821 subd. 3(a)(1)(i)

* * *

5.B. Severity Level by Statutory Citation

* * *

Statute Number	Offense Title	Severity Level
609.821 subd. 3(a)(1)(i)	Financial Transaction Card Fraud (Over \$35,000)	5

* * *

6. Correct Statute Title – Unlawful Transfers or Sales of Recordings

Modifications: The Commission changed an offense title from “Unlawful Transfer of Sounds” to “Unlawful Transfers or Sales of Recordings” to conform to the current statutory language.¹²

Modifications to 2018 Minn. Sentencing Guidelines §§ 5.A and 5.B:

5.A. Offense Severity Reference Table

* * *

¹¹ See 1999 Minn. Laws [ch. 218](#), § 5.

¹² See 1993 Minn. Laws [ch. 221](#).

Severity Level	Offense Title	Statute Number
UNRANKED	Unlawful Transfers <u>or Sales of Recordings of</u> Sounds; Sales	325E.201

* * *

5.B. Severity Level by Statutory Citation

* * *

Statute Number	Offense Title	Severity Level
325E.201	Unlawful Transfers <u>or Sales of Recordings</u> of Sounds; Sales	Unranked

* * *