MINNESOTA
SENTENCING GUIDELINES COMMISSION

2026 Amendments

Minnesota Sentencing Guidelines and Commentary

Date: August 1, 2026

This document is a staff compilation of modifications that the Minnesota Sentencing Guidelines Commission made to the August 1, 2025, edition of the Minnesota Sentencing Guidelines and Commentary. Each modification described in parts A through C of this compilation has a specified effective date of August 1, 2026.*

A. Comprehensive Review of the Sentencing Guidelines – Eff. Aug. 1, 2026

On January 15, 2026, after completing the main effort of its multiyear comprehensive review of the Sentencing Guidelines, the Commission submitted a consensus package of proposed amendments to the Sentencing Guidelines and Commentary to the Legislature. In the absence of legislative action to the contrary, these modifications take effect August 1, 2026. The adopted modifications make changes to the criminal history score calculation, severity-level rankings of certain offenses, and other changes. The meaning and effect of these modifications is discussed in the MSGC's 2026 Report to the Legislature.[1]

Modification summary:

1. Clarify the Guidelines' purpose and principles.
2. Shorten the decay period for prior felonies from fifteen to ten years.
3. Convert the custody-status criminal-history factor into a durational modifier.
4. Shorten the decay period for prior misdemeanors and gross misdemeanors from ten to seven years.
5. Simplify the rules for counting misdemeanor and gross misdemeanor priors, and eliminate the special rules for counting prior misdemeanor and gross misdemeanor DWIs.
6. Remove the prior juvenile record from the criminal history score.
7. Clarify the prosecutor's burden to prove how out-of-state offenses apply.
8. Increase ranking from Severity Level (SL) 6 to SL 7: Assault 2nd Degree (Dangerous Weapon, Substantial Bodily Harm).

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

[1] Minn. Sentencing Guidelines Comm'n, 2026 Report to the Legislature (Jan. 15, 2026) (retrieved June 30, 2026, at https://mn.gov/sentencing-guidelines/assets/2026-Minn-Sentencing-Guidelines-Comm-Report-to-the-Legislature_tcm30-719777.pdf), pp. 7–11.

This document was prepared by the staff of the Minnesota Sentencing Guidelines Commission for the Commission's review. This document has not been adopted by the Commission and does not necessarily represent its views.

9. Add a true first offender departure factor.
10. Convert the sentencing modifier for Criminal Vehicular Homicide (Qualified Prior Conviction) into an increased ranking (from SL 8 to SL 9).
11. Add discretionary ranges to the shaded cells of the grids & update example offenses.
12. Reduce Assault 1st Degree (Great Bodily Harm) ranking from SL 9 to SL 8.
13. Increase Criminal Vehicular Operation (Great Bodily Harm; Gross Negligence or While Impaired) ranking from SL 5 to SL 6.
14. Increase Assault 3rd Degree (Substantial Bodily Harm) and Domestic Assault by Strangulation rankings from SL 4 to SL 5.
15. Increase Assault 4th Degree ranking from SL 1 to SL 3.

B. Technical amendments to the Sentencing Guidelines – Eff. Aug. 1, 2026

On July 23, 2026, after public hearing, the Commission adopted the following proposals. The Commission made these proposals on June 4, 2026, after its review of technical issues and errors in the 2025 Sentencing Guidelines.

1. Include Custody Status of Offenses Related to First-Degree Murder

Resulting from: An oversight related to the Commission's comprehensive review of the sentencing guidelines where a durational increase was included for custody status at the time of the offense. As defined, custody status must be for a qualifying offense, and qualifying offenses were defined with reference to the three sentencing grids. Because first-degree murder carries a mandatory life sentence and is therefore not on a sentencing grid, it was inadvertently excluded from the "qualifying offense" definition; also inadvertently omitted was an attempt or conspiracy to commit first-degree murder, which has a special, one-line sentencing grid.

Modification summary: Insert reference to first-degree murder, including attempts and conspiracies.

2. Correct the Definition of "Presumptive Range"

Resulting from: An oversight related to the Commission's comprehensive review of the sentencing guidelines where durational ranges in the shaded ("presumptive stayed") cells on the grids are provided. However, the definition of "Presumptive Range" was not updated.

Modification summary: Update the definition.

3. Remove an Example Offense in Comment 2.C.06

Resulting from: An erroneous example in the comment is incorrect because the statutory maximum was raised to five years in 2021. 2021, 1st special session, Ch. 11, sec. 38.

Modification summary: Delete second example in the comment.

4. Repeal of Marijuana and Controlled Substance Taxation

Resulting from: The repeal of Chapter 297D, Marijuana and controlled substance taxation by 2025 Minn. Laws 1st Sp. Sess. ch. 13, art. 8, § 22, effective August 1, 2025.

Modification summary: Delete obsolete references to taxation.

C. Legislative amendments to crime laws affecting the Sentencing Guidelines – 2026 Regular Session – Eff. Aug. 1, 2026

On July 23, 2026, after public hearing, the Commission adopted the following proposals. The Commission made these proposals on June 4, 2026, after its review of the 2026 Regular Session Laws.

1. New: Coercion by Private Sexual Image Threat Resulting in Death or Great Bodily Harm

Resulting from: 2026 Minn. Laws. ch. 76.

Modification summary:

- Coercion by Private Sexual Image Threat Resulting in Death at (SL) 9.
- Coercion by Private Sexual Image Threat Resulting in Great Bodily Harm at SL 8.

2. New: Aggravating Factor for Age Deception

Resulting from: 2026 Minn. Laws. ch. 97, art. 6, § 1 & 2.

Modification summary: Incorporate age deception into the Guidelines as an aggravating factor.

3. New and Amended: Impersonating a Peace Officer

Resulting from: 2026 Minn. Laws. ch. 98.

Modification summary:

- Rank Impersonating a Peace Officer (Minn. Stat. § 609.4751, subd. 1) at SL 2.
- Rank Impersonating a Peace Officer with a Vehicle or While Exercising Authority (subd. 2) at SL 4.
- Re-rank Impersonating a Peace Officer as a Second Violation (subd. 3(a)) at SL 5.
- Rank Impersonating a Peace Officer with a Firearm (subd. 3(b)) at SL 6.
- Rank Committing a Gross Misdemeanor While Impersonating a Peace Officer (subd. 4(a)(2)) at SL 3.
- Create a 12-month penalty modifier for Committing a Felony While Impersonating a Peace Officer (subd. 4(a)(3)), and a 6-month penalty modifier for an attempt or conspiracy.

4. Additions to Sexual Solicitation of a Child

Resulting from: 2026 Minn. Laws. ch. 108, § 6-9.

Modification summary:

- Rank Sexual Solicitation of a Child by Grooming (Minn. Stat. § 609.352, subd. 2c), Sexual Solicitation of a Minor While in a Position of Authority (subd. 2d), and Sexual Solicitation of a Student (subd. 2e) on the Sex Offender Grid at SL G.
- Include these offenses on the list of offenses eligible for permissive consecutive sentences (section 6).

5. New: Assault in the Fourth Degree Against a Hospital or Clinic Security Guard

Resulting from: 2026 Minn. Laws ch. 118, art. 5, § 1.

Modification summary:

- Rank Assault in the Fourth Degree Against a Hospital or Clinic Security Guard at SL 3.
- Continue to list the offense as eligible for permissive consecutive sentencing (section 6).

6. Enhanced Penalties: Theft from Vulnerable Adults

Resulting from: 2026 Minn. Laws ch. 118, art. 5, § 2.

Modification summary:

- Rank Theft From a Vulnerable Adult (Over $35,000) at SL 7.
- Rank Theft From a Vulnerable Adult (Over $5,000) at SL 5.
- Rank Felony Theft From a Vulnerable Adult (5,000 or Less) at SL 4.
- Rank Theft from a Vulnerable Adult (enhanced from a misdemeanor or gross misdemeanor) at SL 2.
- Make conforming changes to Section 2.A.2, eliminate unnecessary language, delete erroneous reference.

7. New: Operating, Facilitating, or Advertising Prediction Markets

Resulting from: 2026 Minn. Laws ch. 118, art. 6.

Modification summary: Add Operating, Facilitating, or Advertising Prediction Markets to the list of unranked offenses.

8. New: Medical Assistance Fraud

Resulting from: 2026 Minn. Laws ch. 127, art. 7, § 3-7.

Modification summary:

- Rank Medical Assistance Fraud ($100,000 or Less) at SL 2.
- Rank Medical Assistance Fraud ($100,001–$1,000,000) at SL 6.
- Rank Medical Assistance Fraud (Over $1,000,000) at SL 8.

D. Other technical amendments to the Sentencing Guidelines; Repeal of medical cannabis violations – Eff. Dec. 1, 2025

On July 27, 2023, after public hearing, the Commission adopted a proposal to strike references to medical cannabis violations. The Commission made these proposals on June 7, 2023, after its review of the 2023 Regular Session Laws.

Resulting from: Minn. Stat. § 152.33 was repealed by 2023 Minn. Laws ch. 63, art. 6, § 73, paragraph (a), effective August 1, 2025, but the effective date of the repeal was changed to December 1, 2025, by 2024 Minn. Laws ch. 121, art. 2, § 147.

Modification summary: Delete obsolete references to medical cannabis violations.

Key to adopted modifications:

Added text is underlined.
Deleted text is ~~stricken~~.
Moved text is double-underlined.
Removed text is ~~double-stricken~~.
Deleted text within moved text is ~~double-underlined and stricken~~.

The following amendments are adopted modifications to the 2025 Minn. Sentencing Guidelines & Commentary:

Minnesota Sentencing Guidelines and Commentary

1. Purpose and Definitions

A. Statement of Purpose and Principles

The purpose of the Sentencing Guidelines is to establish rational and consistent sentencing standards that promote public safety, reduce sentencing disparity, and ensure that the sanctions imposed for felony convictions are proportional to the severity of the conviction offense and the ~~offender's~~ criminal history of the person being sentenced.

The Sentencing Guidelines shall embody the following principles:

1. In establishing and modifying the Sentencing Guidelines, the Commission's primary consideration shall be public safety~~. This shall include~~, including consideration of the long-term negative impact of the crime on the community. Minn. Stat. § 244.09, subd. 5. Public safety is furthered by sentences that work to reduce future crimes and victimizations through means such as rehabilitation, deterrence, incapacitation, and effective community supervision. In some cases, it is furthered by reasonable caution in the choice of sanctions that could hinder reintegration into the law-abiding community.

2. Sentencing should be neutral with respect to the race, gender, social, or economic status of those convicted ~~felons~~ of felonies.

3. The severity of the sanction should increase in direct proportion to an increase in offense severity or ~~the convicted felon's~~ criminal history, or both. This promotes a rational and consistent sentencing policy. Proportionate sentence severity is measured against the blameworthiness of the person being sentenced and the harms done, or risked, to victims and the community in the current offense.

4. The criminal history score advances the Guidelines' goals of public safety and proportionality. The score reflects policy judgments that prior convictions are an important indicator of a person's risk of recidivism, and that they may add to the blameworthiness of the commission of the current offense. The criminal history score is not meant to impose cumulative penalties for prior offenses that have previously been punished.

~~4.~~5. Commitment to the Commissioner of Corrections is the most severe sanction that can be imposed for a felony conviction, but it is not the only significant sanction available to the court.

~~5.~~6. Because state and local correctional facility capacity is finite, confinement should be imposed only for ~~offenders who are~~ those convicted of more serious offenses or who have longer criminal histories. To ensure such usage of finite resources, sanctions used in sentencing those convicted ~~felons~~ of felonies should be the least restrictive necessary to achieve the purposes of the sentence.

~~6.~~7. Although the Sentencing Guidelines are advisory to the court, the presumptive sentences are deemed appropriate for the felonies covered by them. Therefore, departures from the presumptive sentences established in the Sentencing Guidelines should be made only when substantial and compelling circumstances can be identified and articulated.

* * *

B. Definitions

As used in these Sentencing Guidelines (or "Guidelines"), the following terms have the meanings given.

* * *

13. Presumptive Sentence. "Presumptive sentences" are those sentences provided on the Sentencing Guidelines. They are presumptive because they are presumed to be appropriate for all typical cases sharing criminal history and offense severity characteristics.

    a. Presumptive Disposition. The "presumptive disposition" is the recommendation for either a commitment or a stayed sentence.

        (1) Presumptive Commitment. A "presumptive commitment" is a recommended disposition of imprisonment for cases contained in cells outside of the shaded area on the Grids.

        (2) Presumptive Stayed Sentence. A "presumptive stayed sentence" is a recommendation for a stayed sentence for cases contained in the cells within the shaded area on the Grids.

    b. Presumptive Duration. The "presumptive duration" is the recommended fixed sentence length in months found in the appropriate cell on the applicable Grid.

    c. Presumptive Range. The "presumptive range" is provided for ~~a sentence that is a presumptive commitment~~ each presumptive fixed duration. Pursuant to Minn. Stat. § 244.09, subd. 5(2), the range is 15 percent lower and 20 percent higher than the fixed duration displayed in each cell on the Grids.

d. Lower Range. The "lower range" is that portion of the presumptive range that is shorter than the fixed presumptive duration.

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2. Determining Presumptive Sentences

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A. Offense Severity

1. General Rule. The applicable offense severity level is determined by the conviction offense, not the charging offense. The severity level for each felony offense is found in section 5.A, Offense Severity Reference Table.

2. Theft ~~and Damage to Property; Foreseeable~~ Creating a Risk of ~~Bodily~~ Harm. ~~For an offender sentenced for theft under~~ If Minn. Stat. § 609.52, subd. 3a(a)(2), applies to a felony theft offense, the severity level ranking is elevated by one severity level from that listed on the Offense Severity Reference Table ~~if the offense creates a foreseeable risk of bodily harm to another and:~~

   ~~a. the violation involves a monetary value over $1,000; or~~

   ~~b. the violation involves a monetary value between $500 and $1,000, and the offender has been convicted within the preceding five years for an offense under Minn. Stat. § 609.52, subd. 3~~.

* * *

B. Criminal History

The horizontal axis on the Sentencing Guidelines Grids is the criminal history score. An offender's criminal history score is the sum of points from eligible:

- prior felonies; and
- ~~custody status at the time of the offense;~~
- prior misdemeanors and gross misdemeanors~~; and~~

- ~~prior juvenile adjudications~~.

This section details the requirements for calculating the criminal history points in each of these areas. This section also details the requirements for calculating criminal history points for convictions from jurisdictions other than Minnesota and convictions for enhanced felonies.

* * *

1. Prior Felonies. Assign a particular weight, as set forth in paragraphs a and b, to each extended jurisdiction juvenile (EJJ) conviction and each felony conviction, provided that a felony sentence was stayed or imposed before the current sentencing or a stay of imposition of sentence was given before the current sentencing.

* * *

c. Felony Decay Factor. In computing the criminal history score, a prior felony sentence or stay of imposition following a felony conviction must not be used if all 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~~ ten 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~~ ten years elapsed after the date of expiration of the sentence.

* * *

Comment

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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 not be counted in criminal history score computation if ~~fifteen~~ ten years has elapsed from the prior sentencing date (or from the date the prison*

sentence, if executed, expired) 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.~~[Reserved.]

~~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.~~

(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 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) Assigning Points to Offenses Committed Over Time. Assign 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.

b. Two Custody Status Points. Assign **two** custody status points if:

(1) the current conviction offense is an offense on the Sex Offender Grid other than Failure to Register as a Predatory Offender (Minn. Stat. § 243.166); and

(2) the offender qualifies for one custody status point, as described in section a, above, for an offense currently found on the Sex Offender Grid other than Failure to Register as a Predatory Offender (Minn. Stat. § 243.166).

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).

Three months must also be added to the lower and upper end of the range provided in the appropriate cell on the applicable Grid.

If the current conviction is an attempt, conspiracy, or other offense with a sentence modifier that reduces the presumptive sentence, the three months must be added to the cell duration before the duration is reduced as outlined in section 2.G. The presumptive duration, however, cannot be less than one year.

d. No Custody Status Points Assigned. The offender must not be assigned custody status points when:

(1) The offender was committed for treatment or examination under Minn. R. Crim. P. 20.

(2) The offender was on juvenile custody status other than for an extended jurisdiction juvenile (EJJ) conviction, at the time the adult felony was committed.

(3) The offender was on custody status for a misdemeanor or gross misdemeanor DWI committed when the offender was 16 or 17 years old, and the DWI was processed in adult court under Minn. Stat. § 260B.225, subds. 3 and 8.

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 section 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 or I 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.*~~

~~***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.*~~

~~***2.B.204.** Commitments under Minn. R. Crim. P. 20, and juvenile custody status are not included because, in those situations, there has been no conviction. However, a custody point will be assigned if the offender committed the current offense while under some form of custody following an extended jurisdiction juvenile (EJJ) conviction.*~~

~~***2.B.205.** The custodial statuses covered by this policy are those occurring after conviction of a felony, non-traffic gross misdemeanor, gross misdemeanor driving while impaired or refusal to submit to a chemical test, gross misdemeanor reckless driving, or misdemeanor on the targeted misdemeanor list provided in Minn. Stat. § 299C.10, subd. 1(e). Thus, an offender who commits a new felony while on pre-trial diversion or pre-trial release on another charge does not get a custody status point. Likewise, offenders serving a misdemeanor sentence for an offense not on the targeted misdemeanor list provided in Minn. Stat. § 299C.10, subd. 1(e), do not receive a custody status point, even if the court imposed the misdemeanor sentence upon conviction of a gross misdemeanor or felony.*~~

~~***2.B.206.** As a general rule, the Commission excludes traffic offenses from consideration in computing the criminal history score. Given the increased penalties associated with driving while impaired (DWI)*~~

~~*offenses and the serious impact on public safety, the Commission determined that these offenses should be considered for custody status points in the same manner as non-traffic offenses.*~~

~~***2.B.207.** The most problematic consequence of a Criminal History Score of 7 or more (in excess of the maximum points differentiated by the Sentencing Guidelines Grids) is that no additional penalty accrues for engaging in felonious behavior while under custody supervision. For example, if an offender has a Criminal History Score of 7 and is released pending sentencing for a Severity Level 3 offense, and he or she commits another Severity Level 3 offense while awaiting sentencing, the presumptive sentence for the most recent offense is the same as for the prior offense. A presumption exists against consecutive sentences for most property offenses, and therefore no additional penalty results when this situation occurs. The addition of three months to the cell duration provides a uniform presumptive standard for dealing with this situation.*~~

~~***2.B.208.** While the Commission believes that the impact of the custody status provision should be maintained for all cases, incrementing the sanction for each criminal history point above seven is deemed inappropriate. The primary determinant of the sentence is the seriousness of the current conviction offense. Criminal history is of secondary importance, and the Commission believes that proportionality in sentencing is served sufficiently with the criminal history differentiations incorporated in the Sentencing Guidelines Grids and with the special provision for maintaining the impact of the custody status provision. The Commission deems further differentiation unnecessary to achieve proportionality in sentencing.*~~

~~***2.B.209.** The Commission believes that when multiple offenses are an element of the conviction offense or the conviction offense is an aggregated offense, offenders should receive a custody status point if they become subject to one of the custody status types listed in 2.B.2.a(1) at any point during the time period in which the offenses occurred. While the Commission recognizes that its policy for determining the presumptive sentence states that for aggregated offenses, the earliest offense date determines the date of offense, it believes that eligibility for a custody status point should not be limited to the offender's status at the time of the earliest date of offense.*~~

~~***2.B.210.** When offenders on any custody status condition listed in section 2.B.2.b for a sex offense commit another sex offense, they are assigned an additional custody status point. The Commission believes that offenders who commit a subsequent sex offense pose so significant a risk to public safety that their criminal history scores should be enhanced to reflect this risk. This policy does not apply to the offense of Failure to Register as a Predatory Offender (Minn. Stat. § 243.166).*~~

~~***2.B.211.** Assign a custody status point to an offender on any custody status type who absconds and commits a new felony offense. The custody status type depends on the form of supervision that exists when the offender commits a new offense. For example, assign a custody status point to an offender who*~~

~~*absconds from supervised release and commits a new felony offense. The custody status type would be "supervised release."*~~

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, assign~~ 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.

   b. Gross Misdemeanors Sentenced as Misdemeanors. A gross misdemeanor conviction resulting in a misdemeanor sentence for an offense not defined as a targeted misdemeanor under Minn. Stat. § 299C.10, subd. 1(e) must **not** be used to compute units.

   c. Single Course of Conduct / Multiple Sentences. When multiple sentences for a single course of conduct were imposed under Minn. Stat. §§ 152.137, 609.585, or 609.251, the offender must not be assigned more than one unit.

d. Single Course of Conduct / Multiple Victims. When multiple offenses arising from a single course of conduct involving multiple victims were sentenced, assign only the two most severe offenses units in criminal history.

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~~ seven years have elapsed between the date 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.

f. Maximum Assignment of Points. ~~Except as provided in paragraph g, an~~ An offender cannot receive more than one point for prior misdemeanor or gross misdemeanor convictions.

~~g. Assignment of Units for Criminal Vehicular Homicide or Operation or Felony Driving While Impaired (DWI). If the current conviction is for criminal vehicular homicide or operation or felony DWI, assign previous violations of Minn. Stat. §§ 169A.20, 169A.31, 169.121, 169.1211, 169.129, 360.0752, 609.2112, 609.2113, or 609.2114 two units each. There is no limit to the total number of misdemeanor points that can be included in the offender's criminal history score due to criminal vehicular homicide or operation or DWI offenses. For DWI offenses, see section 2.B.6 for exceptions to this policy relating to predicate offenses used for enhancement purposes. For Criminal Vehicular Homicide (Death or Death to an Unborn Child, and Qualified Prior Conviction), assign no misdemeanor units to the qualified prior driving offense that was used to increase the statutory maximum penalty.~~

~~a.~~g. Enhanced Felonies. When the current offense is a felony solely because the offender has previous convictions for misdemeanor and gross misdemeanor offenses, do not assign units for the prior misdemeanor ~~conviction(s) on the targeted misdemeanor list provided in Minn. Stat. § 299C.10, subd. 1(e)~~ or gross misdemeanor conviction(s) upon which the enhancement is based ~~may be used in determining custody status, but cannot be used in calculating the remaining components of the offender's criminal history score~~.

h. Prior Misdemeanor or Gross Misdemeanor Driving While Impaired (DWI) Committed by Juvenile Offenders. Assign no units under this section if the offender was 16 or 17 years

old when the prior misdemeanor or gross misdemeanor DWI was committed, and the DWI was processed in adult court under Minn. Stat. § 260B.225, subds. 3 and 8.

Comment

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~~***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.~~

~~*When the current offense is a conviction under Minn. Stat. § 609.2112, subd. 1(b) (Death, and Qualified Prior Conviction), or § 609.2114, subd. 1(b) (Death to an Unborn Child, and Qualified Prior Conviction), the Commission excluded consideration of the qualified prior driving offense, if a misdemeanor or gross misdemeanor, from the criminal history score because, by virtue of the conviction offense, the qualified prior conviction has been accounted for in the enhanced penalty.*~~

~~***2.B.601.***~~***2.B.304.*** *A number of instances exist in Minnesota law in which misdemeanor or gross misdemeanor behavior carries a felony penalty as a result of the offender's prior record. The Commission decided that in the interest of fairness, a prior misdemeanor or gross misdemeanor offense that elevated the misdemeanor or gross misdemeanor behavior to a felony should not also be used in criminal history points ~~other than custody status~~. Only one prior offense should be excluded from the criminal history score calculation, unless more than one prior was required for the offense to be elevated to a felony. For example, Assault in the Fifth Degree is a felony if the offender has two or more convictions for assaultive behavior. In those cases, the two related priors at the lowest level should be excluded. Similarly, theft crimes of more than $500 but less than $1,000 are felonies if the offender has at least one previous conviction for an offense specified in that statute. In those cases, the prior related offense at the lowest level should be excluded.*

* * *

2.B.306. *The Commission also adopted a "decay" factor for prior misdemeanor and gross misdemeanor offenses for the same reasons articulated for felony offenses; however, given that these offenses are less serious, the decay period is ~~10~~ seven years rather than ~~15~~ten.*

* * *

2.B.308. *When multiple misdemeanor or gross misdemeanor sentences arose out of a single course of conduct in which there were multiple victims, consideration should be given only for the two most severe offenses for purposes of computing criminal history. These are the same policies that apply to felony convictions~~ and juvenile adjudications~~.*

4. ~~Prior Juvenile Adjudications.~~ [Reserved.]

~~a. Assignment of Points for Juvenile Adjudications. Assign an offender one point for every two adjudications for felony offenses the offender committed, and for which the offender was prosecuted as a juvenile, provided that:~~

~~(1) each adjudication must have been for a separate offense or must have involved separate victims in a single course of conduct, except as provided in paragraphs c and d below; and~~

~~(2) the juvenile adjudications must have been for offenses committed after the offender's fourteenth birthday; and~~

~~(3) the offender was under the age of twenty-five when the offender committed the current felony.~~

~~b. Maximum Points for Juvenile Adjudications. An offender may receive only **one point** for juvenile adjudications as described in this section, except that the point limit does not apply to juvenile adjudications for offenses for which the Sentencing Guidelines would presume imprisonment if the offenses had been committed by an adult. Make this determination regardless of the criminal history score, and include offenses that carry a mandatory minimum prison sentence and other presumptive imprisonment offenses described in section 2.C.~~

c. Single Course of Conduct / Multiple Sentences. When multiple adjudications for a single course of conduct were imposed under Minn. Stat. §§ 152.137, 609.585, or 609.251, only one offense may be used in the criminal history calculation.

d. Single Course of Conduct / Multiple Victims. When the prior adjudications involve multiple offenses arising from a single course of conduct involving multiple victims, include only the two most severe offenses in criminal history.

Comment

2.B.401. *Juvenile history is included in the criminal history score to identify those young adult felons whose criminal careers were preceded by repeated felony-type offenses committed as a juvenile. The Commission held several public hearings devoted to the issue of using juvenile records in the criminal history score. Those hearings pointed out differences in legal procedures and safeguards between adult and juvenile courts, differing availability of juvenile records, and differing procedures among juvenile courts. As a result of these issues, the Commission decided to establish rigorous standards regulating the consideration of juvenile records in computing the criminal history score.*

2.B.402. *Only juvenile adjudications for offenses that are felonies under Minnesota law will be considered in computing the criminal history score. Status offenses, dependency and neglect proceedings, and misdemeanor or gross misdemeanor-type offenses will be excluded from consideration.*

2.B.403. *Consistent with Minn. Stat. § 609.035, which provides for a single sentence for adult offenders when multiple convictions arise from a single course of conduct, only juvenile adjudications for offenses arising from separate courses of conduct contribute to the juvenile point(s), unless multiple victims were involved.*

2.B.404. *The juvenile adjudications must result from offenses committed after the offender's fourteenth birthday. The Commission chose the date of the offense rather than the date of adjudication to eliminate variability in application based on differing juvenile court practices.*

2.B.405. *Juvenile adjudications will be considered in computing the criminal history score only for adult offenders who had not attained the age of 25 when they committed the felony for which they are now being sentenced. Again, the Commission chose to examine the age of the offender at the time of the offense rather than at time of sentencing to prevent disparities resulting from system processing variations.*

2.B.406. *The Commission decided that it would take two juvenile adjudications to equal 1 point on the criminal history score, and generally, an offender may not receive more than 1 point on the basis of prior*

~~*juvenile adjudications. This point limit does not apply to offenses committed and prosecuted as a juvenile for which the Guidelines would presume imprisonment, regardless of criminal history, if committed by an adult. This includes offenses in the non-shaded portions of the applicable Grids at a Criminal History Score of 0 (e.g., Severity Level 8 or I), offenses subject to mandatory minimum laws (e.g., Assault in the Second Degree), or any other applicable policies under section 2.C. The criminal history record is not used to determine whether the juvenile offense carries a presumptive imprisonment sentence because of the difficulty in applying criminal history score computations to prior juvenile offenses. Two juvenile adjudications are required for each additional point. Again, no partial points are allowed, so an offender with only one juvenile adjudication meeting the above criteria would receive no point on the criminal history score.*~~

~~***2.B.407.** To provide a uniform and equitable method of computing criminal history scores for cases of multiple felony offenses with adjudications arising from a single course of conduct when single victims are involved, and when the adjudications involved provisions of Minn. Stats. §§ 152.137, 609.585 or 609.251, consideration should be given to only the most severe offense with an adjudication when computing criminal history.*~~

~~*When there are multiple felony offenses with adjudications arising out of a single course of conduct in which there were multiple victims, consideration should be given only to the two most severe felony offenses with adjudications when computing criminal history. These are the same policies that apply to felony, gross misdemeanor and misdemeanor convictions for adults.*~~

~~*The Commission has carefully considered the application of the Hernandez method to sentencing in provisions of Minnesota law other than Minn. Stats. §§ 152.137, 609.585 and 609.251. The Commission made a deliberate decision not to amend the Sentencing Guidelines. See, State v. Williams, 771 N.W.2d 514 (Minn. 2009).*~~

5. Convictions from Jurisdictions other than Minnesota.

   a. In General. The state has the burden of proving the facts at sentencing necessary to justify consideration of an out-of-state conviction in the criminal history score, and the court must make the final determination as to whether and how a prior non-Minnesota conviction should be counted in the criminal history score. The court should consider, but is not limited to, the factors in paragraphs b through e, below. Sections 2.B.1 through 2.B.7 govern the use of these convictions.

* * *

e. Juvenile Offenses from other Jurisdictions. Minnesota law governs the inclusion in the criminal history score of a prior felony offense from ~~jurisdictions~~ a jurisdiction other than Minnesota committed by an offender who was under 18 years old ~~in the juvenile section or adult section of the criminal history score. The offense should be included in the juvenile history section only if it meets the requirements in section 2.B.4~~. The prior can be included ~~in the adult history section~~ only if the factfinder determines that it is an offense for which the offender would have been certified to adult court if it had occurred in Minnesota.

Comment

2.B.501. *The Commission concluded that convictions from other jurisdictions must, in fairness, be considered in the computation of an offender's criminal history score. Convictions from jurisdictions other than Minnesota include convictions under the laws of any other state, or the federal government, including convictions under the Uniform Code of Military Justice, or convictions under the law of other nations. The prosecutor is solely responsible to prove the facts at sentencing necessary to justify consideration of out-of-state convictions for inclusion in the criminal history score, Williams v. State, 910 N.W.2d 736, 743 (Minn. 2018) (citation omitted), and the sentencing court is responsible for making the determination of whether and how such convictions are to be included.*

2.B.502. ~~*The Commission concluded that convictions from other jurisdictions must, in fairness, be considered in the computation of an offender's criminal history score.*~~ *No uniform nationwide characterization of the terms "felony," "gross misdemeanor," and "misdemeanor" exists. Therefore, the Commission recognizes that criminal conduct may be characterized differently by the various state and federal criminal jurisdictions. Generally, the classification of prior offenses as petty misdemeanors, misdemeanors, gross misdemeanors, or felonies should be determined by current Minnesota offense definitions and sentencing policies, except as provided in section 2.B.7. However, with respect to out-of-state offenses, the Commission chose not to apply Minnesota's 2023 redefinition of "felony," which now defines a felony as including a 365-day sentence. This is consistent with the Commission's policy before 2023 and with Minn. Stat. § 609.0342(b)'s treatment of pre-2023 365-day sentences as gross misdemeanor sentences.*

2.B.503. *For prior non-Minnesota controlled substance convictions, the amount and type of the controlled substance should be considered in the determination of the appropriate weight to be assigned to a prior felony sentence for a controlled substance offense.*

2.B.504. *A non-Minnesota conviction committed by a juvenile can only be included in the adult section of the criminal history score if the offender would have been certified as an adult under Minnesota law. See State v. Marquetti, 322 N.W.2d 316 (Minn. 1982).*

6. ~~Felony Enhancement Due to Prior Misdemeanor or Gross Misdemeanor Convictions.~~ [Reserved.]

   a. ~~Enhanced Felonies. When the current offense is a felony solely because the offender has previous convictions for misdemeanor and gross misdemeanor offenses, the prior misdemeanor conviction(s) on the targeted misdemeanor list provided in Minn. Stat. § 299C.10, subd. 1(e) or gross misdemeanor conviction(s) upon which the enhancement is based may be used in determining custody status, but cannot be used in calculating the remaining components of the offender's criminal history score.~~

   b. ~~Counting Prior Misdemeanors and Gross Misdemeanors; Future Felony.~~ ~~Except as provide in paragraph c, misdemeanor and gross misdemeanor offenses used to enhance the current offense must be used in calculating the offender's criminal history score on future offenses that are not enhanced felonies. Prior felony offenses used for enhancement must always be used in calculating the offender's criminal history score.~~

   c. ~~Counting Prior Misdemeanors and Gross Misdemeanors; Felony Driving While Impaired (DWI).~~ ~~If the current offense is a felony DWI offense and the offender has a prior felony DWI offense, the prior felony DWI must be used in computing the criminal history score. The prior misdemeanor and gross misdemeanor offenses used to enhance the first prior felony DWI cannot be used in the offender's criminal history. Any other misdemeanor or gross misdemeanor DWI offenses may be included as provided in section 2.B.3.g.~~

~~*Comment*~~

~~***2.B.601.*** *A number of instances exist in Minnesota law in which misdemeanor or gross misdemeanor behavior carries a felony penalty as a result of the offender's prior record. The Commission decided that in the interest of fairness, a prior misdemeanor or gross misdemeanor offense that elevated the misdemeanor or gross misdemeanor behavior to a felony should not also be used in criminal history points other than custody status. Only one prior offense should be excluded from the criminal history score calculation, unless more than one prior was required for the offense to be elevated to a felony. For example, Assault in the Fifth Degree is a felony if the offender has two or more convictions for assaultive behavior. In those cases, the two related priors at the lowest level should be excluded. Similarly, theft crimes of more than $500 but less than $1,000 are felonies if the offender has at least one previous conviction for an offense specified in that statute. In those cases, the prior related offense at the lowest level should be excluded.*~~

~~***2.B.602.*** *A first-time first-degree (felony) driving while impaired (DWI) offense involves a DWI violation within ten years of the first of three or more prior impaired driving incidents. Because the DWI priors elevated this offense to the felony level, they should be excluded from the criminal history score. Those predicate misdemeanor and gross misdemeanor offenses should also be excluded for a subsequent felony DWI, but any prior felony DWI would be counted as part of the felony criminal history score.*~~

* * *

C. Presumptive Sentence

1. Finding the Presumptive Sentence. * * *

b. Presumptive Duration. Each cell on the Grids provides a fixed sentence duration. If a cell, or other Guidelines policy, provides a fixed sentence duration of 12 months, a sentence duration of one year and one day is permissible without departure. Minn. Stat. § 244.09 requires that the Guidelines provide a range for sentences that are presumptive commitments. ~~For cells above the solid line, the~~ The Guidelines provide both a fixed presumptive duration and a range of time for that sentence except as provided in section 2.C.3.c(1). ~~The shaded areas of the grids do not display ranges. If the duration for a sentence that is a presumptive commitment is found in a shaded area, the standard range – 15 percent lower and 20 percent higher than the fixed duration displayed – is permissible without departure, provided that the minimum sentence is not less than one year, and the maximum sentence is not more than the statutory maximum.~~

~~2.~~c. Presumptive Sentence Durations that Exceed the Statutory Maximum Sentence. If the presumptive sentence duration in the appropriate cell on the applicable Grid exceeds the statutory maximum sentence for the conviction offense, the statutory maximum is the presumptive sentence. See Presumptive Sentence Durations that Exceed the Statutory Maximum Sentence Table in Appendix 3.

2. Custody Status at the Time of the Offense.

a. Definitions. As used in this section (2.C.2), the following terms have the meanings given:

(1) "Custody status" means a qualifying status that:

(i) followed entry of guilty plea, guilty verdict, or conviction for a qualifying offense, and

(ii) was in effect at any time when the person being sentenced committed the current offense.

(2) "Qualifying status" means any of the following:

(i) probation;

(ii) parole;

(iii) supervised release;

(iv) conditional release following release from an executed prison sentence;

(v) release pending sentencing;

(vi) confinement in a jail, workhouse, or prison pending or after sentencing; and

(vii) escape from confinement following an executed sentence.

(3) "Qualifying offense" means:

(i) a felony offense assigned a severity level of 3 or greater on the Standard Grid, a felony offense assigned a severity level of D3 or greater on the Drug Offender Grid, or a felony offense on the Sex Offender Grid, or murder in the first degree, including of an unborn child, whether completed, an attempt, or a conspiracy; or

(ii) a felony offense equivalent, within the meaning of section 2.B.5, to an offense described in clause (i).

(4) "Sex offense" means:

(i) a felony offense on the Sex Offender Grid other than failure to register as a predatory offender, Minn. Stat. § 243.166; or

(ii) a felony offense equivalent, with the meaning of section 2.B.5, to an offense described in clause (i).

b. Durational Increase. If the person being sentenced was, at the time of the current offense, under a custody status for a qualifying offense, then the presumptive duration is increased by the amount shown in the custody status column pertaining to the Grid row for the current offense.

c. Special Durational Increase for Sex Offenses With Sex-Offense Custody Status. Notwithstanding paragraph b, if the current offense is a sex offense and the person being sentenced was, at the time of the current offense, under a custody status for a

felony sex offense, then the presumptive duration is increased by double the amount shown in the custody status column of the Sex Offender Grid pertaining to the Grid row for the current offense.

d. Ranges; Statutory Maximum. Any change to the presumptive fixed sentence under paragraph b or c must also be applied to the upper and lower ends of the range found in the appropriate cell on the applicable Grid. Neither the presumptive fixed sentence nor a range may exceed the statutory maximum sentence for the current offense.

e. Exceptions.

(1) This section (2.C.2) does not apply to either of the following forms of custody status:

(i) commitment for treatment or examination under Minn. R. Crim. P. 20; or
(ii) juvenile custody status other than for an EJJ conviction.

(2) A prior felony conviction that resulted in a non-felony sentence (misdemeanor or gross misdemeanor) is not a qualifying offense or a sex offense within the meaning of this section (2.C.2).

(3) This section (2.C.2) does not apply to a presumptive or permissive consecutive sentence pursuant to section 2.F.

* * *

Comment

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2.C.06. *There are rare instances where the presumptive sentence length exceeds the statutory maximum sentence. If this situation occurs, the statutory maximum sentence becomes the presumptive sentence. For example, Threats of Violence under Minn. Stat. § 609.713, subd. 3(a)(1) or (2) carries a statutory maximum sentence of 12 months and 1 day. At ~~a~~ Severity Level 1, the statutory maximum will be exceeded when the offender reaches a Criminal History Score of 3. ~~As another example, Soliciting Children for Sexual Conduct under Minn. Stat. § 609.352 carries a statutory maximum sentence of three years. At Severity Level G, the statutory maximum will be exceeded when the offender reaches a Criminal History Score of 4~~.*

* * *

D. Departures from the Guidelines

* * *

3. Factors that may be used as Reasons for Departure. The following is a nonexclusive list of factors that may be used as reasons for departure:

   a. Mitigating Factors.

* * *

(10) The person being sentenced has no prior criminal conviction or adult stay of adjudication. A criminal history score of zero is not sufficient to qualify for this factor. This factor is not available if the current offense is ranked at severity level 10 or 11 on the Standard Grid or is on the Sex Offender Grid.

* * *

   b. Aggravating Factors.

* * *

(13) The offense was committed in the presence of a child.

(14) An adult offender intentionally deceived a minor victim into believing the offender was also a minor in order to facilitate the commission of the offense as described in Minn. Stat. § 609.099.

~~(14)~~ (15) The offense was committed in a location in which the victim had an expectation of privacy.

* * *

G. Convictions for Attempts, Conspiracies, and Other Sentence Modifiers

* * *

11. ~~Criminal Vehicular Homicide (Death or Death to an Unborn Child, and Qualified Prior Conviction). When an offender is sentenced for a criminal vehicular homicide under Minn. Stat. § 609.2112, subd. 1(b) (death, qualified prior conviction), or 609.2114, subd. 1(b) (death~~

~~to an unborn child, qualified prior conviction), the presumptive duration found in the appropriate cell on the Standard Grid for the offense must be increased by fifty percent.~~[Reserved.]

12. Attempt or Conspiracy to Commit First-Degree Murder. When an offender is sentenced for attempt or conspiracy to commit murder in the first degree under Minn. Stat. § 609.185 or murder of an unborn child in the first degree under Minn. Stat. § 609.2661, the presumptive disposition is commitment. The presumptive durations are as follows:

~~**SEVERITY LEVEL OF**~~ **CONVICTION OFFENSE**	**CRIMINAL HISTORY SCORE**							**Custody Status**
	0	**1**	**2**	**3**	**4**	**5**	**6 or more**	
~~*Conspiracy / Attempted*~~ *or conspiracy to commit Murder~~,~~ 1st Degree*	180 *153–216*	190 *162–228*	200 *170–240*	210 *179–240*[1]	220 *187–240*[1]	230 *196–240*[1]	240 *204–240*[1]	+10

[1] 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 the maximum sentence is not more than the statutory maximum. See section 2.C.1~~–2~~.

* * *

14. Offense Committed While Impersonating a Peace Officer. For a crime for which the maximum penalty has been increased under Minn. Stat. § 609.4751, subd. 4(a)(3), the presumptive duration applicable to the underlying crime is increased by:

    a. 12 months, if the underlying offense was completed; or

    b. 6 months, if the underlying offense was an attempt under Minn. Stat. § 609.17 or conspiracy under Minn. Stat. § 609.175.

* * *

4.A. Sentencing Guidelines 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 italics)		**CRIMINAL HISTORY SCORE**							**Custody Status**
		0	**1**	**2**	**3**	**4**	**5**	**6 or more**	
Murder, 2nd Degree (Intentional; Drive-by Shootings)	**11**	306 *261–367*	326 *278–391*	346 *295–415*	366 *312–439*	386 *329–463*	406 *346–480*[1]	426 *363–480*[1]	+20
Murder, 2nd Degree (Unintentional) 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*	+15
Murder, 3rd Degree (Drugs); Carjacking 1st Degree Assault, 1st Degree (Great Bodily Harm)	**9**	86 *74–103*	98 *84–117*	110 *94–132*	122 *104–146*	134 *114–160*	146 *125–175*	158 *135–189*	+12
Agg. Robbery, 1st Degree; Burglary;Assault 1st Degree (w/ Weapon or Assault)	**8**	48 *41–57*	58 *50–69*	68 *58–81*	78 *67–93*	88 *75–105*	98 *84–117*	108 *92–129*	+10
Felony DWI 1st Degree; Assault 2nd Degree (weapon & SBH) Financial Exploitation of a Vulnerable Adult	**7**	36 *31–43*	42 *36–50*	48 *41–57*	54 *46–64*	60 *51–72*	66 *57–79*	72 *62–84*[1, 2]	+6
Ineligibly Possess Firearm; Assault, 2nd Deg. (weapon)ree Burglary, 1st Degree (Occupied Dwelling)	**6**	21 *18–25*	27 *23–32*	33 *29–39*	39 *34–46*	45 *39–54*	51 *44–61*	57 *49–68*	+6
Assault 3rd Degree (SBH); Residential Burglary 2nd Deg. (dwelling) Simple Robbery	**5**	18 *16–21*	23 *20–27*	28 *24–33*	33 *29–39*	38 *33–45*	43 *37–51*	48 *41–57*	+5
Felony Domestic Assault; Violate No-Contact Order	**4**	12 *12–14*	15 *13–18*	18 *16–21*	21 *18–25*	24 *21–28*	27 *23–32*	30 *26–36*	+3

~~*Nonresidential Burglary*~~									
Assault 4th Degree; Vehicle Use w/out Consent ~~Theft Crimes (Over $5,000)~~	**3**	12 *12–14*	13 *12–15*	15 *13–18*	17 *15–20*	19 *17–22*	21 *18–25*	23 *20–27*	+2
Theft ~~Crimes (~~of $5,000 or Less~~);~~ Check Forgery ($251–$2,500)	**2**	12 *12–14*	12 *12–14*	13 *12–15*	15 *13–18*	17 *15–20*	19 *17–22*	21 *18–25*	+2
~~*Assault, 4th Degree*~~ *Fleeing a Peace Officer*	**1**	12 *12–14*	12 *12–14*	12 *12–14*	13 *12–15*	15 *13–18*	17 *15–20*	19 *17–22*	+2

Presumptive commitment to state imprisonment. First-degree murder has a mandatory life sentence and is excluded from the Guidelines under Minn. Stat. § 609.185. See section 2.E, for policies regarding those sentences controlled by law.

Presumptive stayed sentence; at the discretion of the court, up to 364 days of confinement and other non-jail sanctions can be imposed as conditions of probation. However, certain offenses in the shaded area of the Grid always carry a presumptive commitment to state prison. See sections 2.C and 2.E.

[1] 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 the maximum sentence is not more than the statutory maximum. See section 2.C.1~~-2~~.

[2] For Severity Level 7 offenses other than Felony DWI, the standard range of 20% higher than the fixed duration applies at CHS 6 or more. (The range is 62-86.)

* * *

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 italics)*		**CRIMINAL HISTORY SCORE**							**Custody Status**
		0	**1**	**2**	**3**	**4**	**5**	**6 or more**	
Criminal Sexual Conduct (CSC) 1st Degree	**A**	144 *144[2]–172*	156 *144[2]–187*	168 *144[2]–201*	180 *153–216*	234 *199–280*	306 *261–360*	360 *306–360[3]*	+18
CSC 2nd Degree, ~~1(a)(b)(c)(d)(e) 1a(a)(b)(c)(d)(h)(i) (e.g.,~~ contact & by harm/force ~~with bodily harm)~~	**B**	90 *90[2]–108*	110 *94–132*	130 *111–156*	150 *128–180*	195 *166–234*	255 *217–306*	300 *255–360*	+15
CSC 3rd Degree, ~~1(a)(b)(c)(d) 1a(c)(d)(g)(h)(i) (e.g.,~~ penetration & by coercion ~~/occupation)~~	**C**	48 *41–57*	62 *53–74*	76 *65–91*	90 *77–108*	117 *100–140*	153 *131–183*	180 *153–216*	+9
~~*CSC 2nd Degree 1a(e)(f)(g) (age)*~~ *CSC 3rd Degree, ~~1a(a)(e)(f) or 1a(b) with 2(1) (age)~~ penetration of child 14–15*	**D**	36 *31–43*	48 *41–57*	60 *51–72*	70 *60–84*	91 *78–109*	119 *102–142*	140 *119–168*	+7
CSC 4th Degree, ~~1(a)(b)(c)(d) 1a(c)(d)(g)(h)(i) (e.g.,~~ contact & by coercion ~~/occupation)~~	**E**	24 *21–28*	36 *31–43*	48 *41–57*	60 *51–72*	78 *67–93*	102 *87–120*	120 *102–120[3]*	+6
CSC 4th Degree, ~~1a(a)(b)(e)(f) (age)~~ contact of child 14–15 ~~CSC 5th Degree 3(b) (subsequent)~~	**F**	18 *16–21*	27 *23–32*	36 *31–43*	45 *39–54*	59 *51–70*	77 *66–92*	84 *72–100*	+4
~~*CSC 3rd Degree 1a(b) with 2(2)*~~ *Possession of Child Sexual Abuse Material*	**G**	15 *13–18*	20 *17–24*	25 *22–30*	30 *26–36*	39 *34–46*	51 *44–60*	60 *51–60[3]*	+3

CSC 5th Degree, ~~–3(a)~~ ~~(~~nonconsensual penetration~~)~~	**H**	12 *12–14*	14 *12–16*	16 *14–19*	18 *16–21*	24 *21–24*[3]	24[3] *24–24*	24[3] *24–24*	+2
Failure to Register as a Predatory Offender	**I**	12[1] *12[1]–14*	14 *12[1]–16*	16 *14–19*	18 *16–21*	24 *21–28*	30 *26–36*	36 *31–43*	+2

[1] 12[1]=One year and one day mandatory minimum under Minn. Stat. § 243.166, subd. 5(b).

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 364 days 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] Sex Trafficking is not subject to a 144- or 90-month minimum statutory presumptive sentence so the standard range of 15% lower and 20% higher than the fixed duration applies. (For Severity Level A, Criminal History Scores 0, 1, & 2, the ranges are 123–172, 133–187, & 143–201, respectively. For Severity Level B, Criminal History Score 0, the range is 77–108.)

[3] 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 the maximum sentence is not more than the statutory maximum. See section 2.C.1~~–2~~. For Severity Level H, all displayed durations, including the upper and lower ranges, are constrained by the statutory maximum at criminal history scores above 4.

* * *

4.C. Drug Offender Grid

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

SEVERITY LEVEL OF CONVICTION OFFENSE (Example offenses listed in italics)		CRIMINAL HISTORY SCORE							Custody Status
		0	1	2	3	4	5	6 or more	
Aggravated Controlled Substance Crime, 1st Deg. ree Manufacture of Any Amt. Meth	**D9**	86 *74*–103*	98 *84*–117*	110 *94*–132*	122 *104*–146*	134 *114*–160*	146 *125*–175*	158 *135*–189*	+12
Controlled Substance Crime, 1st Degree	**D8**	65 *56*–78*	75 *64*–90*	85 *73*–102*	95 *81*–114*	105 *90*–126*	115 *98*–138*	125 *107*–150*	+10
Controlled Substance Crime, 2nd Degree	**D7**	48 *41–57*	58 *50–69*	68 *58–81*	78 *67–93*	88 *75–105*	98 *84–117*	108 *92–129*	+10
Controlled Substance Crime, 3rd Degree Failure to Affix Stamp	**D6**	21 *18–25*	27 *23–32*	33 *29–39*	39 *34–46*	45 *39–54*	51 *44–61*	57 *49–68*	+6
Possess Meth Precursors Substances with Intent to Manufacture Meth	**D5**	18 *16–21*	23 *20–27*	28 *24–33*	33 *29–39*	38 *33–45*	43 *37–51*	48 *41–57*	+5
Controlled Substance Crime, 4th Degree	**D4**	12 *12–14*	15 *13–18*	18 *16–21*	21 *18–25*	24 *21–28*	27 *23–32*	30 *26–36*	+3
Meth/Fentanyl Crimes Involving Children and Vulnerable Adults	**D3**	12 *12–14*	13 *12–15*	15 *13–18*	17 *15–20*	19 *17–22*	21 *18–25*	23 *20–27*	+2
Controlled Substance Crime, 5th Degree	**D2**	12 *12–14*	12 *12–14*	13 *12–15*	15 *13–18*	17 *15–20*	19 *17–22*	21 *18–25*	+2
Sale of Simulated Controlled Substance	**D1**	12 *12–14*	12 *12–14*	12 *12–14*	13 *12–15*	15 *13–18*	17 *15–20*	19 *17–22*	+2

* Lower range may not apply. See section 2.C.3.c(1) and Minn. Stat. § 152.021, subdivisions 3(c) & 3(d).

Presumptive commitment to state imprisonment.

Presumptive stayed sentence; at the discretion of the court, up to 364 days of confinement and other non-jail sanctions can be imposed as conditions of probation. However, certain offenses in the shaded area of the Grid always carry a presumptive commitment to state prison. See sections 2.C and 2.E.

* * *

5.A. Offense Severity Reference Table

Offenses subject to a mandatory life sentence, including first-degree murder and certain sex offenses under Minn. Stat. § 609.3455, subdivision 2, are excluded from the Guidelines by law.

Severity Level	Offense Title	Statute Number
* * *		
9	Assault 1st Degree (Deadly Force Against Official)	609.221, subd. 2
	~~Assault 1st Degree (Great Bodily Harm)~~	~~609.221, subd. 1~~
	~~Assault of an Unborn Child 1st Degree~~	~~609.267~~
	Carjacking 1st Degree	609.247, subd. 2
	Coercion by Private Sexual Image Threat Resulting in Death	609.27, subd. 2(c)
	Criminal Abuse of Vulnerable Adult (Death)	609.2325, subd. 3(1)
	Criminal Vehicular Homicide (Qualified Prior Conviction)	609.2112, subd. 1(b)
	Criminal Vehicular Operation (Death to an Unborn Child, and Qualified Prior Conviction)	609.2114, subd. 1(b)
	* * *	
8	Aggravated Robbery 1st Degree	609.245, subd. 1
	Arson 1st Degree	609.561
	Assault 1st Degree (Great Bodily Harm)	609.221, subd. 1
	Assault of an Unborn Child 1st Degree	609.267
	Burglary 1st Degree (w/Weapon or Assault)	609.582, 1(b) & (c)
	Child Torture	609.3775
	Coercion by Private Sexual Image Threat Resulting in Great Bodily Harm	609.27, subd. 2(b)
	Criminal Abuse of Vulnerable Adult (Great Bodily Harm)	609.2325, subd. 3(2)
	Criminal Vehicular Homicide ~~(Death)~~	609.2112, subd. 1(a)

Severity Level	Offense Title	Statute Number
	~~Criminal Vehicular Homicide (Death, and Qualified Prior Conviction)~~	~~609.2112, subd. 1(b)~~
	Criminal Vehicular Operation (Death to an Unborn Child)	609.2114, subd. 1(a)
	~~Criminal Vehicular Operation (Death to an Unborn Child, and Qualified Prior Conviction)~~	~~609.2114, subd. 1(b)~~
	* * *	
	Medical Assistance Fraud (Over $1,000,000)	609.467, subd. 2(c)
	* * *	
7	Assault 2nd Degree (Dangerous Weapon, Substantial Bodily Harm)	609.222, subd. 2
	Carjacking 2nd Degree	609.247, subd. 3
	Financial Exploitation of a Vulnerable Adult (Over $35,000)	609.2335
	Felony Driving While Impaired 1st Degree	169A.24
	Labor Trafficking (Extended Period of Time)	609.282, subd. 1a(2)
	Theft from a Vulnerable Adult (Over $35,000)	609.52, subd. 2(a)(3), (4), (15), (16), & (19) with subds. 3(1) & 3a(b)(3)
	Wildfire Arson (Damage over Five Dwellings, Burns 500 Acres or More, or Crops in Excess of $100,000)	609.5641 subd. 1a(b)
6	Aggravated Robbery 2nd Degree	609.245, subd. 2
	Assault 2nd Degree (Dangerous Weapon)	609.222, subd. 1
	Burglary 1st Degree (Occupied Dwelling)	609.582, subd. 1(a)
	Carjacking 3rd Degree	609.247, subd. 4
	Catalytic Converter Crime (Over 70 Converters)	325E.21, subd. 6(b)(5)
	Certain Persons Not to Have Firearms or Ammunition	624.713, subd. 2(b); 609.165, subd. 1b
	Criminal Vehicular Operation (Great Bodily Harm; Gross Negligence or While Impaired)	609.2113, subd. 1(1), (2), (3), (4), (5) & (6)
	Criminal Vehicular Operation (Injury to an Unborn Child; Gross Negligence or While Impaired)	609.2114, subd. 2(1), (2), (3), (4), (5) & (6)

Severity Level	Offense Title	Statute Number
	Discharge of Firearm at Occupied Transit Vehicle/Facility	609.855, subd. 5
	Explosive Device or Incendiary Device	609.668, subd. 6
	Fleeing Peace Officer (Great Bodily Harm)	609.487, subd. 4(b)
	Impersonating a Peace Officer with a Firearm	609.4751, subd. 3(b)
	* * *	
	Medical Assistance Fraud ~~(Over $35,000)~~ ($100,001–$1,000,000)	~~609.466~~ 609.467, subd. 2(b)
	* * *	
5	Arson 2nd Degree	609.562
	Assault of an Unborn Child 2nd Degree	609.2671
	Assault 3rd Degree (Substantial Bodily Harm)	609.223, subd. 1
	Burglary 2nd Degree	609.582, subd. 2(a)(1) & (2), 2(b)
	Check Forgery (Over $35,000)	609.631, subd. 4(1)
	Child Neglect/Endangerment	609.378
	Criminal Vehicular Operation (Great Bodily Harm; Leaving the Scene or Defective Maintenance)	609.2113, subd. 1(7) & (8)
	Criminal Vehicular Operation (Injury to an Unborn Child; Leaving the Scene or Defective Maintenance)	609.2114, subd. 2(7) & (8)
	Deprivation of Vulnerable Adult (Substantial Bodily Harm)	609.233, subd. 3(2)
	Domestic Assault by Strangulation	609.2247
	* * *	
	Impersonating a Peace Officer as Second Violation	609.4751, subd. 3(a)
	* * *	
	Theft from a Vulnerable Adult (Over $5,000)	609.52, subds. 3(2) & 3a(b)(3)
	* * *	
4	Adulteration	609.687, subd. 3(2)
	~~Assault of an Unborn Child 2nd Degree~~	~~609.2671~~

Severity Level	Offense Title	Statute Number
	Assault 3rd Degree (Child Abuse)	609.223, subd. ~~1,~~2~~,~~ & 3
	Assault 5th Degree (3rd or Subsequent Violation)	609.224, subd. 4
	* * *	
	Domestic Assault	609.2242, subd. 4
	~~Domestic Assault by Strangulation~~	~~609.2247~~
	* * *	
	Impersonating a Peace Officer with a Vehicle or While Exercising Authority	609.4751, subd. 2
	* * *	
	Theft from a Vulnerable Adult ($5,000 or Less)	609.52, subds. 3(3) & 3a(b)(3)
	* * *	
3	Arson 3rd Degree	609.563
	Assault 4th Degree	609.2231, subd. 1(c), 2(b), 3, 3a, & 4(b)
	* * *	
	Committing a Gross Misdemeanor While Impersonating a Peace Officer	609.4751, subd. 4(a)(2)
	* * *	
	~~Medical Assistance Fraud (Over $5,000)~~	~~609.466~~
	* * *	
2	* * *	
	Impersonating a Peace Officer	609.4751, ~~subd. 3~~ subd. 1
	* * *	
	Medical Assistance Fraud (~~$5,000~~ $100,000 or Less)	~~609.466~~ 609.467, subd. 2(a)
	* * *	
	Theft Crimes – $5,000 or Less	See section 7: Theft Offense List

Severity Level	Offense Title	Statute Number
	Theft from a Vulnerable Adult	609.52, subds. 3(4) & 3a(b)(2)
	Theft (Looting)	609.52
	Theft ($1,000 or Less; Risk of ~~Bodily~~ Harm)	609.52, subd. 3a(a)(1)
	* * *	
1	Accidents (Great Bodily Harm)	169.09, subd. 14(a)(2)
	Altering Livestock Certificate	35.824
	~~Assault 4th Degree~~	~~609.2231, subd. 1, 2, 3, & 3a~~
	Assault Weapon in Public if Under 21	624.7181, subd. 2
	Assaulting or Harming a Police Horse	609.597, subd. 3(3)
	~~Assault 4th Degree Motivated by Bias~~	~~609.2231, subd. 4(b)~~
	* * *	
UNRANKED	* * *	
	Prediction Market – Advertising	609.7615, subd. 3
	Prediction Market – Operating or Facilitating	609.7615, subd. 2
	* * *	
* * *		
G	* * *	
	Sexual Solicitation of ~~Children to Engage in Sexual Conduct~~ a Child	609.352, subd. 2
	Sexual Solicitation of a Child by Grooming	609.352, subd. 2c
	Sexual Solicitation of ~~Children to Engage in Sexual Conduct (Electronic)~~ a Child – Electronic	609.352, subd. 2a
	Sexual Solicitation of a Minor While in a Position of Authority	609.352, subd. 2d
	Sexual Solicitation of a Student	609.352, subd. 2e
	Surreptitious Observation Device (Minor Victim and Sexual Intent)	609.746, subd. 1(h)

* * *		
D6	Controlled Substance Crime 3rd Degree	152.023
	~~Failure to Affix Stamp on Cocaine~~	~~297D.09, subd. 1a~~
	~~Failure to Affix Stamp on Hallucinogens or PCP~~	~~297D.09, subd. 1a~~
	~~Failure to Affix Stamp on Heroin~~	~~297D.09, subd. 1a~~
	~~Failure to Affix Stamp on Remaining Schedule I & II Narcotics~~	~~297D.09, subd. 1a~~
* * *		
D2	* * *	
	~~Failure to Affix Stamp on Remaining Schedule I, II, & III Non-Narcotics~~	~~297D.09, subd. 1a~~
	~~Medical Cannabis Violations (Submission of False Records)~~	~~152.33, subd. 4~~
	Sale of Synthetic Cannabinoids	152.027, subd. 6(c)
D1	~~Failure to Affix Stamp on Illegal Cannabis~~	~~297D.09, subd. 1a~~
	~~Failure to Affix Stamp on Schedule IV Substances~~	~~297D.09, subd. 1a~~
	~~Medical Cannabis Violations (Intentional Diversion)~~	~~152.33, subd. 1~~
	~~Medical Cannabis Violations (Diversion by patient, registered Designated Caregiver, or Parent)~~	~~152.33, subd. 2~~
	Sale of Simulated Controlled Substance	152.097

5.B. Severity Level by Statutory Citation

Offenses subject to a mandatory life sentence, including first-degree murder and certain sex offenses under Minn. Stat. § 609.3455, subdivision 2, are excluded from the Guidelines by law.

Statute Number	**Offense Title**	**Severity Level**
* * *		
~~152.33, subd. 1~~	~~Medical Cannabis Violations (Intentional Diversion)~~	~~D1~~
~~152.33, subd. 2~~	~~Medical Cannabis Violations (Diversion by patient, registered Designated Caregiver, or Parent)~~	~~D1~~

Statute Number	Offense Title	Severity Level
~~152.33, subd. 4~~	~~Medical Cannabis Violations (Submission of False Records)~~	~~D2~~
* * *		
~~297D.09 subd. 1a~~	~~Failure to Affix Stamp on Cocaine~~	~~D6~~
~~297D.09 subd. 1a~~	~~Failure to Affix Stamp on Hallucinogens or PCP (Angel Dust), Incl. LSD~~	~~D6~~
~~297D.09 subd. 1a~~	~~Failure to Affix Stamp on Heroin~~	~~D6~~
~~297D.09 subd. 1a~~	~~Failure to Affix Stamp on Remaining Schedule I and II Narcotics~~	~~D6~~
~~297D.09 subd. 1a~~	~~Failure to Affix Stamp on Remaining Schedule I, II, & III Non-Narcotics~~	~~D2~~
~~297D.09 subd. 1a~~	~~Failure to Affix Stamp on Illegal Cannabis~~	~~D1~~
~~297D.09 subd. 1a~~	~~Failure to Affix Stamp on Schedule IV Substance~~	~~D1~~
* * *		
609.2112~~,~~ subd. 1(a)	Criminal Vehicular Homicide ~~(Death)~~	8
609.2112~~,~~ subd. 1(b)	Criminal Vehicular Homicide (~~Death, and~~ Qualified Prior Conviction)	~~8*~~ 9*
609.2113 subd. 1(1), (2), (3), (4), (5) & (6)	Criminal Vehicular Operation (Great Bodily Harm; Gross Negligence or While Impaired)	6*
609.2113~~,~~ subd. 1(7) & (8)	Criminal Vehicular Operation (Great Bodily Harm; Leaving the Scene or Defective Maintenance)	5
609.2113, subd. 2	Criminal Vehicular Operation (Substantial Bodily Harm)	3
609.2114, subd. 1(a)	Criminal Vehicular Operation (Death to an Unborn Child)	8

~~* See section 2.G.11 to determine the presumptive sentence.~~

Statute Number	Offense Title	Severity Level
609.2114, subd. 1(b)	Criminal Vehicular Operation (Death to an Unborn Child, and Qualified Prior Conviction)	~~8*~~ 9*
609.2114 subd. 2(1), (2), (3), (4), (5) & (6)	Criminal Vehicular Operation (Injury to an Unborn Child; Gross Negligence or While Impaired)	6*
609.2114~~,~~ subd. 2(7) & (8)	Criminal Vehicular Operation (Injury to an Unborn Child; Leaving the Scene or Defective Maintenance)	5
609.215	Aiding Suicide	Unranked
609.221 subd. 1	Assault 1st Degree (Great Bodily Harm)	~~9~~8
609.221 subd. 2	Assault 1st Degree (Deadly Force Against Official)	9
609.221 subd. 3	Assault 1st Degree (Great Bodily Harm Upon Official)	10
609.221 subd. 4	Assault 1st Degree (Great Bodily Harm Upon Official by Dangerous Weapon or Deadly Force)	11**
609.222 subd. 1	Assault 2nd Degree (Dangerous Weapon)	6
609.222 subd. 2	Assault 2nd Degree (Dangerous Weapon, Substantial Bodily Harm)	7
609.223 subd. 1	Assault 3rd Degree (Substantial Bodily Harm)	~~4~~5***
609.223 subd. 2	Assault 3rd Degree (Bodily Harm, Pattern of Child Abuse)	4
609.223 subd. 3	Assault 3rd Degree (Bodily Harm, Victim under 4)	4
609.2231 subd. 1	Assault 4th Degree (Peace Officer)	~~1~~3

* See section 2.C.1.c and Appendix 3 to determine the presumptive duration. Depending on the offender's criminal history score, the presumptive duration may exceed the statutory maximum.

** See section ~~2.C.2~~ 2.C.1.c and Appendix 3 to determine the presumptive duration. Depending on the offender's criminal history score, the presumptive duration may exceed the statutory maximum.

*** See section 2.C and Appendix 1 to determine the presumptive disposition for assault committed by a State prison inmate or for assault on secure treatment facility personnel by persons committed to the Minnesota Sex Offender Program.

Statute Number	Offense Title	Severity Level
609.2231 subd. 2	Assault 4th Degree (Firefighters and ~~Emergency~~ Medical Personnel)	~~1~~3
609.2231 subd. 3	Assault 4th Degree (Corrections Employee, Prosecutor, Judge, Probation Officer)	~~1~~3*,**
609.2231 subd. 3a	Assault 4th Degree (Secure Treatment Facility Personnel)	~~1~~3*,**
609.2231 subd. 4~~-~~(b)	Assault 4th Degree Motivated by Bias	~~1~~3**
609.2233	Felony Assault Motivated by Bias	See Note[1]
609.224 subd. 4	Assault 5th Degree (3rd or Subsequent Violation)	4
609.2241	Knowing Transfer of Communicable Disease	See Note[2]
609.2242 subd. 4	Domestic Assault	4
609.2245	Female Genital Mutilation	Unranked
609.2247	Domestic Assault by Strangulation	~~4~~5**
* * *		
609.267	Assault of an Unborn Child 1st Degree	~~9~~8
609.2671	Assault of an Unborn Child 2nd Degree	~~4~~5
* * *		
609.27 subd. 2(b)	Coercion by Private Sexual Image Threat Resulting in Great Bodily Harm	8

* See section 2.C and Appendix 1 to determine the presumptive disposition for assault committed by a State prison inmate or for assault on secure treatment facility personnel by persons committed to the Minnesota Sex Offender Program.

** See section ~~2.C.2~~ 2.C.1.c and Appendix 3 to determine the presumptive duration. Depending on the offender's criminal history score, the presumptive duration may exceed the statutory maximum.

[1] See section 2.G.10 to determine the presumptive sentence.

[2] See section 2.A.5 to determine the presumptive sentence.

Statute Number	Offense Title	Severity Level
609.27 subd. 2(c)	Coercion by Private Sexual Image Threat Resulting in Death	9
* * *		
609.322 subd. 1(a)	Sex Trafficking 1st Degree	B*
* * *		
609.343 subd. 1(a)(b)(c)(d)(e) & 1a(a)(b)(c)(d)(h)(i)	Criminal Sexual Conduct 2nd Degree	B*
609.343 subd. 1a(e)(f)(g)	Criminal Sexual Conduct 2nd Degree	D
609.344 subd. 1(a)(b)(c)(d) & 1a(c)(d)(g)(h)(i)	Criminal Sexual Conduct 3rd Degree	C*
* * *		
609.352 subd. 2	Sexual Solicitation of ~~Children to Engage in Sexual Conduct~~ a Child	G
609.352 subd. 2a	Electronic Sexual Solicitation of ~~Children to Engage in Sexual Conduct (Electronic)~~ a Child	G
609.352 subd. 2c	Sexual Solicitation of a Child by Grooming	G
609.352 subd. 2d	Sexual Solicitation of a Minor While in a Position of Authority	G
609.352 subd. 2e	Sexual Solicitation of a Student	G
* * *		
~~609.466~~	~~Medical Assistance Fraud (Over $35,000)~~	~~6~~
~~609.466~~	~~Medical Assistance Fraud (Over $5,000)~~	~~3~~

* See section ~~2.C.2~~ 2.C.1.c and Appendix 3 to determine the presumptive duration. Depending on the offender's criminal history score, the presumptive duration may exceed the statutory maximum.

Statute Number	Offense Title	Severity Level
~~609.466~~	~~Medical Assistance Fraud ($5,000 or Less)~~	~~2~~
609.467 subd. 2(a)	Medical Assistance Fraud ($100,000 or Less)	2
609.467 subd. 2(b)	Medical Assistance Fraud ($100,001–$1,000,000)	6
609.467 subd. 2(c)	Medical Assistance Fraud (More Than $1,000,000)	8
609.4751 ~~subd. 3~~ subd. 1	Impersonating a Peace Officer	2*
609.4751 subd. 2	Impersonating a Peace Officer with a Vehicle or While Exercising Authority	4
609.4751 subd. 3(a)	Impersonating a Peace Officer as a Second Violation	5
609.4751 subd. 3(b)	Impersonating a Peace Officer with a Firearm	6
609.4751 subd. 4(a)(2)	Committing a Gross Misdemeanor While Impersonating a Peace Officer	3
609.4751 subd. 4(a)(3)	Committing a Felony While Impersonating a Peace Officer	See Note[5]
609.476 subd. 3	Publishing Personal Information of Judicial Official (Bodily Harm)	4
609.48 subd. 4(1)	Perjury (Felony Trial)	5
609.48 subd. 4(2)	Perjury (Other Trial)	4
609.485 subd. 4(a)(1)	Escape from Felony Offense	3**
609.485 subd. 4(a)(2)	Escape, Mental Illness	1*

* See section ~~2.C.2~~ 2.C.1.c and Appendix 3 to determine the presumptive duration. Depending on the offender's criminal history score, the presumptive duration may exceed the statutory maximum.

[5] See section 2.G.14 to determine the presumptive sentence.

** See section 2.C and Appendix 1 to determine the presumptive disposition for an escape from an executed sentence.

Statute Number	Offense Title	Severity Level
609.485 subd. 4(a)(3)	Escape with Violence from Gross Misdemeanor or Misdemeanor Offense	Unranked
609.485 subd. 4(a)(4)	Escape from Civil Commitment	1*
* * *		
609.52 subd. 2(a)(3)(ii-~~v~~ iv)	Theft by False Representation ($5,001-$35,000)	3
609.52 subd. 2(a)(3)(ii-~~v~~ iv)	Theft by False Representation ($5,000 or Less)	2
* * *		
~~609.52 subd. 3a(1)~~	~~Theft ($1,000, or Less; Risk of Bodily Harm)~~	~~2~~
~~609.52 subd. 3a(2)~~	~~Theft (Over $1,000; Risk of Bodily Harm)~~	~~See Note[7]~~
~~609.52 subd. 3a(2)~~	~~Theft ($501-$1,000, and Prior Conviction; Risk of Bodily Harm)~~	~~See Note[7]~~
609.52 subds. 3(1) & 3a(b)(3) with subd. 2(a)(3), (4), (15), (16), & (19)	Theft from a Vulnerable Adult (Over $35,000)	7
609.52 subd. 3(1)	Theft of Firearm	4
609.52 subd. 3(2)	Theft of Controlled Substances	4
609.52 subd. 3(2)	Theft of Incendiary Device	4
~~609.52 subd. 3(2)~~	~~Theft of Controlled Substances~~	~~4~~
609.52 subds. 3(2) & 3a(b)(3)	Theft from a Vulnerable Adult (Over $5,000)	5
609.52 subds. 3(3) & 3a(b)(3)	Theft from a Vulnerable Adult ($5,000 or Less)	4

~~[7] See Guidelines section 2.A.2.a-b to determine the severity level.~~

Statute Number	Offense Title	Severity Level
609.52 subd. 3(3)(b)	Theft of Controlled Substances	3
609.52 subd. 3(3)(d)(iii)	Theft from an Abandoned or Vacant Building ($1,000 or Less)	1
609.52 subds. 3(4) & 3a(b)(2)	Theft from a Vulnerable Adult	2
609.52 subd. 3a(a)(1)	Theft ($1,000, or Less; Risk of Harm)	2
609.52 subd. 3a(a)(2)	Theft (Over $1,000; Risk of Harm)	See Note[9]
609.52 subd. 3a(a)(2)	Theft ($501-$1,000, and Prior Conviction; Risk of Harm)	See Note[10]
* * *		
609.595 subd. 1a(a)	Damage to Property (Motivated by Bias)	1*
609.596 subd. 1	Killing or Harming a Public Safety Dog	Unranked
609.597 subd. 3(3)	Assaulting or Harming a Police Horse	1*
609.597 subd. 3(1) & (2)	Assaulting or Harming a Police Horse	Unranked
* * *		
609.662 subd. 2(b)(2)	Duty to Render Aid (Substantial Bodily Harm)	1*
* * *		
609.7615 subd. 2	Operating or Facilitating a Prediction Market	Unranked
609.7615 subd. 3	Advertising a Prediction Market	Unranked
* * *		

[9] See Guidelines section 2.A.2 to determine the severity level.
[10] See Guidelines section 2.A.2 to determine the severity level.

* See section ~~2.C.2~~ 2.C.1.c and Appendix 3 to determine the presumptive duration. Depending on the offender's criminal history score, the presumptive duration may exceed the statutory maximum.

Statute Number	Offense Title	Severity Level
609.776	Interference with Emergency Communications	5*
609.78 subd. 2a(1)	Fictitious Emergency Call (Great Bodily Harm or Death)	8
609.78 subd. 2a(2)	Fictitious Emergency Call (Substantial Bodily Harm)	3
609.78 subd. 2b(1)	Emergency Telephone Calls and Communications (3rd or Subsequent, Making Calls When No Emergency Exists)	4
609.78 subd. 2b(2)	Emergency Telephone Calls and Communications (Blocks, Interferes, Prevents Using Multiple Communication Devices or Electronic Means)	5
609.78 subd. 2c	Fictitious Emergency Call (Response to Home of Official)	1*
* * *		
617.246 subd. 2(b) 3(b) 4(b)	Use of Minors in Sexual Performance or Child Sexual Abuse Material (Subsequent, by Predatory Offender, or Child Under 14)	C*
617.247 subd. 3(a)	Dissemination of Child Sexual Abuse Material	E*
617.247 subd. 3(b)	Dissemination of Child Sexual Abuse Material (Subsequent, by Predatory Offender, or Child Under 14)	C*
* * *		
624.7141 subd. 1	Transferring Firearm to Ineligible Person	2*
* * *		

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* See section ~~2.C.2~~ 2.C.1.c and Appendix 3 to determine the presumptive duration. Depending on the offender's criminal history score, the presumptive duration may exceed the statutory maximum.

6. Offenses Eligible for Permissive Consecutive Sentences

A. Convictions for attempted offenses or conspiracies to commit offenses listed below are eligible for permissive consecutive sentences as well as convictions for completed offenses.

B. Under section 2.F.2.a(1)(i), it is permissive for a current felony conviction to run consecutively to a prior felony sentence from a jurisdiction other than Minnesota if the non-Minnesota conviction is for a crime that is equivalent to a crime listed below.

Statute Number	**Offense Title**
* * *	
609.2112, subd. 1	Criminal Vehicular Homicide ~~(Death)~~
609.2113, subd. 1	Criminal Vehicular Operation (Great Bodily Harm)
609.2113, subd. 2	Criminal Vehicular Operation (Substantial Bodily Harm)
609.2114, subd. 1	Criminal Vehicular Operation (Death to an Unborn Child)
609.2114, subd. 2	Criminal Vehicular Operation (Injury to an Unborn Child)
609.215	Aiding Suicide
609.221	Assault 1st Degree
609.222	Assault 2nd Degree ~~- Dangerous Weapon~~
* * *	
609.352, subd. 2	Sexual Solicitation of ~~Children to Engage in Sexual Conduct~~ a Child
609.352, subd. 2a	Electronic Sexual Solicitation of ~~Children to Engage in Sexual Conduct (Internet or Computer)~~ a Child
609.352 subd. 2c	Sexual Solicitation of a Child by Grooming

Statute Number	Offense Title
609.352 subd. 2d	Sexual Solicitation of a Minor While in a Position of Authority
609.352 subd. 2e	Sexual Solicitation of a Student
* * *	

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7. Theft Offense List

It is recommended that the following property crimes be treated similarly. Below is the Theft Offense List cited for the Theft Crimes ($5,000 or less and over $5,000) in section 5.A Offense Severity Reference Table. The severity level for these offenses is based on the monetary amount of the conviction offense. The monetary amount is contained in the penalty statute as cited below:

- Severity Level 2. When the monetary value of the Theft Crime is $5,000 or less, the penalty statute is Minn. Stat. § 609.52, subdivision 3(3)(a).
- Severity Level 3. When the monetary value of the Theft Crime is over $5,000, the penalty statute is Minn. Stat. § 609.52, subdivision 3(2).

Statute Number	Offense Title
* * *	
609.52 subd. 2(a)(3)(ii), (iii), & (iv)~~, & (v)~~	Theft By False Representation
* * *	

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.13. Attempt or conspiracy is included, as is an equivalent felony from a jurisdiction other than Minnesota.

Statute Number	Offense Title
609.185	Murder 1st Degree
609.19	Murder 2nd Degree
* * *	

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

This table is for convenience when determining if a presumptive duration exceeds the statutory maximum sentence as described in section ~~2.C.2~~ 2.C.1.c. Offenses identified in the table below have presumptive durations that exceed the statutory maximums at the Criminal History Score (CHS) indicated on the table. These are offenses for which the applicable grid does not adjust the duration or range to be at or below the statutory maximum. The table may not be exhaustive.

Statute	Offense	Severity Level	Statutory Maximum (Months)	Exceeds Statutory Maximum At:
609.2112 subd. 1(a)	Criminal Vehicular Homicide	8	120	CHS 6 (upper-range)
609.2112 subd. 1(b)	Criminal Vehicular Homicide (Qualified Prior Conviction)	9	180	CHS 6 (upper-range)
609.2113 subd. 1(1), (2), (3), (4), (5) & (6)	Criminal Vehicular Operation (Great Bodily Harm; Gross Negligence or While Impaired)	6	60	CHS 5 (upper-range)
609.2114, subd. 1(b)	Criminal Vehicular Operation (Death to an Unborn Child, and Qualified Prior Conviction)	9	180	CHS 6 (upper-range)
609.221~~,~~ subd. 4	Assault 1st Degree (Great Bodily Harm Upon Official by Dangerous Weapon or Deadly Force)	11	360	CHS 0 (upper-range)

Statute	Offense	Severity Level	Statutory Maximum (Months)	Exceeds Statutory Maximum At:
609.2231 subd. 3, 3a	Assault 4th Degree (Corrections Employee, Prosecutor, Judge, Probation Officer, Secure Treatment Facility Personnel)	3	24	CHS 6 (upper-range)
609.2231~~,~~ subd. 4(b)	Assault 4th Degree Motivated by Bias	~~1~~3	12, and 1 Day	CHS ~~3~~0 (upper-range)
609.2247	Domestic Assault by Strangulation	5	36	CHS 3 (upper-range)
* * *				
609.4751, ~~subd. 3~~ subd. 1	Impersonating a Peace Officer	2	24	CHS 6 (upper-range)
* * *				

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