

At-a-Glance Guidelines Reference

This at-a-glance reference is an overview to the policies outlined in the 2016 Minnesota Sentencing Guidelines and Commentary. This reference sheet is not representative of the complete or official guidelines language and should not be referenced in official court communications.

Correct Application of Guidelines Policies – MSGC § 2

Use the *Minnesota Sentencing Guidelines and Commentary* policies that are in effect on the date of the conviction offense except:

- if multiple offenses are an element of the conviction offense, the date of offense must be determined by the factfinder; or,
- if the offenses are aggregated, as permitted by statute, the date of the earliest offense should be used as the date of offense.

History – Felony Offenses – MSGC § 2.B.1

- An imposed sentence of at least 1 year and 1 day, or a Stay of Imposition.
- Extended Jurisdiction Juvenile (EJJ) count in felony section.
- Within decayed period: 15 years from discharge or expiration date of the prior to the current offense date.
- Weight is assigned based on Severity Level of prior in effect *when current offense occurs*.
- See MSGC § 2.B.1.f for how to apply weights to prior Single Course of Conduct/Multiple Sentences and Single Course of Conduct/Multiple Victim scenarios.

History – Custody Status – MSGC § 2.B.2

Assign 1 point when:

- the current offense is committed while the offender is on an eligible custody status following an imposed sentence, or after entry of a guilty plea, guilty verdict, or conviction.
 - A custody point is *not assigned* for a DWI offense committed by a 16 or 17 year old offender.

Assign a 2nd point for sex offenses when:

- Current offense sentenced from the Sex Offender Grid at Severity Level A – G and there is an eligible custody status already assigned for a prior offense equivalent to a Severity Level A – G from the Sex Offender Grid.

History – Misdemeanors/Gross Misdemeanors Offenses – MSGC § 2.3

- Eligible offenses include all non-traffic GM offense, GM DWI or Refusal to Test, GM Reckless Driving, and misd. offenses eligible under Minn. Stat. §299C.10
 - Misdemeanor/Gross misdemeanor units are *not assigned* for DWI offenses committed by 16 or 17 year old offenders.
- Within decayed period: 10 years from discharge or expiration of the prior offense to the current offense date.
- Eligible offenses receive 1 unit; 4 units make 1 point and only 1 point is applicable.
- EXCEPTION: if the current offense is Felony DWI or CVO, prior *eligible* DWIs and CVOs will be counted at 2 units each; 2 priors make 1 point, with no limit to points accumulated from these priors.

History – Juvenile Offenses – MSGC § 2.B.4

- The offender must be under 25 when the current offense is committed, and 14 or older when the juvenile priors were committed.
- Priors are felonies under Minnesota law, and were adjudicated by a juvenile court judge.
- 2 priors that meet these conditions will make 1 point.
- Additional points can be assigned for offenses that meet these conditions but are also presumptive commit offenses (higher Severity Level or subsequent offenses) if committed by an adult.

Mandatory and Presumptive Minimum Sentences, MSGC § 2.C & 2.E

The disposition for all offenses will be a commit, and the duration will be from the applicable Sentencing Grid or the mandatory minimum duration from statute, whichever is longer.

- Burglary 1st degree, Minn. Stat. § 609.582, subd. 1(a), w/ prior felony burglary – Grid time
- 2nd Degree Drugs, Minn. Stat. § 152.022, with prior felony 1st or 2nd degree drug – 36 months or Grid time if longer
- 1st Degree Drugs, Minn. Stat. § 152.021, with prior felony 1st or 2nd degree drug – 48 months or Grid time

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Mandatory and Presumptive Minimum Sentences, MSGC § 2.C & 2.E – cont.

- 1st Degree Drugs, Minn. Stat. § 152.021, subd. 3(c) & 3(d) – lower end of range equal to presumptive sentence.
- DWI, Minn. Stat. § 169A.24, subd. 1(2), with prior felony DWI – Grid time
- DWI w/ applicable prior felony CVO under Minn. Stat. § 609.21.1(2) thru (6), Minn. Stat. § 169A.24, subd. 1(3) – Grid time
- Violation of Registration as a Predatory Offender, Minn. Stat. §243.166, subd. 5(c) – 24 months
- Criminal Sexual Conduct 1st – 4th Degree OR Criminal Sexual Predatory Conduct, Minn. Stat. § 609.3453, with a prior Criminal Sexual Conduct OR Criminal Sexual Predatory Conduct offense – 36 months
 - The current offense must be within 15 years of a previous sex offense conviction.
- Weapons Offenses:
 - Dangerous Weapon, Minn. Stat. § 609.11, subd. 4 – Grid time; 36 months subsequent
 - Firearm Offense, Minn. Stat. § 609.11.5(a) – 36 months commit; 60 months for subsequent
 - Felon in Possession of Firearm or Ammunition, Minn. Stat. § 624.713.1(b) or Unauthorized Persons/Firearm Minn. Stat. § 609.165 – 60 month for all offenses (first and subsequent)

Conditional Release – MSGC § 2.E

- This is the statutorily-required term of extended supervision applicable to executed sentences for certain sex offenses committed on or after August 1, 1992, for Felony DWI, for offenses with life sentences, and for other offenses as outlined in statute.
- Durations are 5 years, 10 years, or Life depending on the offense.

Single Behavioral Incidents/Multiple Victims (Exceptions to Hernandizing) – MSGC § 2.B.1.e

Hernandizing is the process of counting criminal history when multiple offenses are sentenced on the same day, in the order they occurred, before the same court. Two exceptions apply:

- Single Course of Conduct/Multiple Sentences: If the offenses are Burglary, Kidnapping, or Meth-Related Crimes Involving Children/Vulnerable Adults and an additional offense – sentence on all eligible offenses but do not Hernandize.
- Single Course of Conduct/Multiple Victims – multiple sentences are imposed but Hernandize only the two offenses at the highest Severity Level.

Consecutive Sentences – MSGC § 2.F

- Permissive Consecutive sentencing is applicable when the current felony is found on the list of offense eligible for permissive consecutive sentences in Section 6 and the disposition is a commit.
 - Sentencing guidelines worksheet will reflect concurrent sentence; court will pronounce duration found in “0” column of the applicable Grid.
 - A current eligible offense can be sentenced consecutively to a prior eligible offense that has not expired or been discharged.
 - Single Course of Conduct/Multiple Sentences and Single Course of Conduct/Multiple Victim scenarios are eligible provided they are on the eligible offense list and are presumptive commits.
- Presumptive Consecutive sentencing is applicable when the offense is committed while serving the term of imprisonment portion of an executed sentence, for escape from the term of imprisonment portion of an executed sentence, or for an offense committed while on escape from the term of imprisonment portion of an executed sentence.
 - The current offense(s) must be a presumptive commit.
 - The presumptive duration for the sentence is found in the “1” column of the applicable Grid.
 - The imposed sentence should be either the presumptive consecutive sentence or the concurrent Grid time on the current offense, whichever is longer.