The mandate contains two tasks

SENTENCING GUIDELINES MODIFICATION.
The Sentencing Guidelines Commission shall comprehensively review and consider modifying how the Sentencing Guidelines and the sex offender grid address the crimes described in Minnesota Statutes, sections 617.246 and 617.247, as compared to similar crimes, including other sex offenses and other offenses with similar maximum penalties.

• “Comprehensively review”

• “Consider modifying”

• What is the process for modifying the Sentencing Guidelines?
  • Minn. Stat. § 244.09, subd. 11
  • Minn. Rules chapter 3000
Modification Process 1: New or Amended Crimes

- Legislature acts (usually thru May)
- Commission responds (usually June & July)
- Guidelines take effect (Aug 1)

“A modification mandated or authorized by the legislature or relating to a crime created or amended by the legislature in the preceding session”

Modification Process 2: Most Commission-Initiated Changes

- Commission proposes change (by Jan 15)
- Legislature has thru May to act (or not)
- Guidelines take effect (usually Aug 1)

“Any modification which amends the Sentencing Guidelines grid, including severity levels and criminal history scores, or which would result in the reduction of any sentence or in the early release of any inmate”
Modification Process 3: Some Commission-Initiated Changes

“All other modifications”—primarily minor or technical

Also Required: Public Hearing

• A public hearing must occur—
  • AFTER amendments to the Guidelines are proposed [by the Commission]
  • AT LEAST 30 DAYS AFTER Commission’s notice of intention to amend the Guidelines has been published in State Register
  • AT LEAST 5 DAYS BEFORE final adoption of the amendments to the Guidelines
What about recommendations for legislative change?

- “The commission shall from time to time make recommendations to the legislature regarding changes in the Criminal Code, criminal procedures, and other aspects of sentencing.”
  —Minn. Stat. § 244.09, subd. 6.

- A standing duty, but not necessarily part of this mandate

- None of the timing and public hearing requirements apply to recommendations to the Legislature

- Legislative recommendations are commonly included in the required January Report to the Legislature

- 2020 Session: 2/11 – 5/18

Staff-recommended next steps

For upcoming meetings—

- MSGC staff would identify several distinct issues/problems connected with sentencing Minn. Stat. §§ 617.246 & 617.247 offenses

- Staff would brief Commission on facts (known & not known) relevant to each issue/problem

- Commission would then decide to—
  - Draft Guidelines change, legislative recommendation, or report
  - Or conduct additional research

1. Issue:
2. Facts:
   - Known
   - Not known
3. Next Steps:
   - Draft
   - Research

mn.gov/sentencing-guidelines
### Examples of possible issues

<table>
<thead>
<tr>
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| • “Pornographic work”  
  • “Sexual performance” | • Use of Minor  
  • Sexting  
  • Distinctions  
  • Rankings  
  • Other crimes | • Distinctions  
  • 617.246 (for profit)  
  • Rankings | • Distinctions  
  • Hernandizing  
  • Rankings | • CSDB history  
  • Grooming  
  • Invasion of privacy  
  • Victims’ rights  
  • Affirmative defense |

[Source: mn.gov/sentencing-guidelines]