

# Minnesota Sentencing Guidelines Commission

## Decimals in Conspiracy/Attempted Murder, 1<sup>st</sup> Degree Grid: Possible Modifications February 24, 2016

**Background:** Guidelines grids must provide a range that is 15 percent lower and 20 percent higher than the fixed duration displayed.<sup>1</sup> The grids display to the nearest whole number of months, rounding up on the low end, and rounding down on the high end. There is only one exception to the display of whole numbers on the grids: The Conspiracy/Attempted Murder, 1<sup>st</sup> Degree Grid displays decimals in the lower range at Criminal History Scores 1, 3, and 5, as illustrated below. This unique, one-row grid is used to find the presumptive sentence for attempt or conspiracy to commit murder in the first degree.<sup>2</sup>

SEVERITY LEVEL OF CONVICTION OFFENSE	CRIMINAL HISTORY SCORE						
	0	1	2	3	4	5	6 or More
<i>Conspiracy/ Attempted Murder, 1<sup>st</sup> Degree</i>	<b>180</b> <i>153-216</i>	<b>190</b> <i>161.5-228</i>	<b>200</b> <i>170-240</i>	<b>210</b> <i>178.5-240<sup>1</sup></i>	<b>220</b> <i>187-240<sup>1</sup></i>	<b>230</b> <i>195.5-240<sup>1</sup></i>	<b>240</b> <i>204-240<sup>1</sup></i>



**Issue:** There are ~~three~~\* issues with displaying decimals on the Conspiracy/Attempted Murder, 1<sup>st</sup> Degree Grid. First, it is inconsistent with the other grids, and consistency is an important Guidelines principle.<sup>3</sup> Second, it adds mathematical complexity for the sentencing judge, who is required, at sentencing, to articulate the amount of time the offender must serve in prison (at least two-thirds of the executed sentence) and the amount of time the offender will serve on supervised release (no more than one-third of the executed sentence).<sup>4</sup> Clear articulation of these time periods is challenged by application of these fractions to decimals. ~~Third, the Department of Corrections uses its Corrections Operations Management System (COMS) to calculate an offender's supervised release date and expiration date. COMS does not support sentences that contain decimals.~~

<sup>1</sup> "The guidelines shall provide for an increase of 20 percent and a decrease of 15 percent in the presumptive, fixed sentence." [Minn. Stat. § 244.09](#), subd. 5(2).

<sup>2</sup> The penalty for completed murder in the first degree is fixed by statute at life imprisonment. [Minn. Stat. § 609.185\(a\)](#).

<sup>3</sup> See Minn. Sentencing Guidelines § 1.A.

<sup>4</sup> [Minn. Stat. § 244.101](#).

~~Only whole numbers are used to determine a person's supervised release date and expiration date. For a sentence with a decimal, COMS uses standard rounding rules to determine a person's supervised release date and expiration date (i.e., if the calculation results in a number with a decimal of .5 or above, the number is rounded up to the nearest whole number).\*~~

**Guidelines Considerations:** The Conspiracy/Attempted Murder, 1<sup>st</sup> Degree Grid provides lower and upper ranges. However, displaying ranges with decimals is inconsistent with the other grids.

**Question for the Commission:** Should the Conspiracy/Attempted Murder, 1<sup>st</sup> Degree Grid be modified and the lower ranges at Criminal History Scores 1, 3, and 5 be rounded up and displayed in whole numbers?

**Analysis of Alternatives:**

- To **take no action** would permit courts to continue to afford maximum leniency for those who conspire or attempt to commit first-degree murder, within the statutory requirement of “a decrease of 15 percent in the presumptive, fixed sentence,” Minn. Stat. § 244.09, subd. 5(2), but it would do so in a manner that is difficult for courts and corrections to administer and is inconsistent with the other grids in the Sentencing Guidelines.
- To **round up to whole numbers** (staff recommendation) would bring the Conspiracy/Attempted Murder, 1<sup>st</sup> Degree Grid in line with the other Guidelines grids and allow for clarity and efficiency in pronouncing and administering those sentences.

**Staff Recommendation:** For consistency, to promote clarity at sentencing, and to avoid calculation errors in COMS, staff recommends that, effective August 1, 2017, § 2.G.11 be modified to display whole numbers in the lower ranges of the Conspiracy/Attempted Murder, 1<sup>st</sup> Degree Grid at Criminal History Scores 1, 3, and 5, as outlined below:

**Section 2.G Convictions for Attempts, Conspiracies, and Other Sentence Modifiers**

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11. 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						
	0	1	2	3	4	5	6 or More
<b><i>Conspiracy / Attempted Murder, 1<sup>st</sup> Degree</i></b>	<b>180</b> <i>153-216</i>	<b>190</b> <del>161.5</del> <u>162-228</u>	<b>200</b> <i>170-240</i>	<b>210</b> <del>178.5</del> <u>179-240<sup>1</sup></u>	<b>220</b> <i>187-240<sup>1</sup></i>	<b>230</b> <del>195.5</del> <u>196-240<sup>1</sup></u>	<b>240</b> <i>204-240<sup>1</sup></i>

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

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\* Staff note: During the presentation of this material to the MSGC on April 27, 2016, DOC staff noted inaccuracies in some of the information. These inaccuracies have been indicated by strikethrough.