

MINNESOTA SENTENCING GUIDELINES COMMISSION
SUMMARY OF ADOPTED MODIFICATIONS TO THE SENTENCING GUIDELINES

August, 1996

**ADOPTED MODIFICATIONS TO GO INTO EFFECT FOR CRIMES
COMMITTED ON OR AFTER AUGUST 1, 1996**

 **The following crime was added to the Unranked Offense List in section II.A.03.**

Issuing a second receipt without “duplicate” on it - 227.52

 **Sections II.B.2. and II.B.201. were modified to clarify that supervised release and conditional release are to be considered as types of custody.**

2. The offender is assigned one point if he or she was on probation, or parole, supervised release, conditional release, or confined in a jail, workhouse, or prison following conviction of a felony or gross misdemeanor or an extended jurisdiction juvenile conviction, or released pending sentence at the time the felony was committed for which he or she is being sentenced. . . .

II.B.201.. . . Criminal justice custodial status includes probation (supervised or unsupervised), parole, supervised release, conditional release, or confinement in a jail, workhouse, or prison, or work release, following conviction of a felony or gross misdemeanor, or release pending sentence following the entry of a plea of guilty to a felony or gross misdemeanor, or a verdict of guilty by a jury or a finding of guilty by the court of a felony or gross misdemeanor. . . .

 **Section II.B.407. was deleted from the guidelines because it is outdated and no longer necessary.**

~~*II.B.407. Under Laws of 1980, Chapter 580, sec. 16 (amends Minn. Stat. § 260.161, subd. 1), juvenile courts are required to maintain juvenile records until the offender reaches the age of 23, and release those records to requesting adult courts. The adult courts are authorized to use juvenile information to determine a proper sentence.*~~

 **The following technical change was made to section II.B.6.:**

6. When determining the criminal history score for a current offense that is a felony

solely because the offender has previous convictions for similar or related offenses, the prior 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.

☞ **Section II.C. is modified to clarify that the Commission's intent is to only include severity level VI drug crimes when applying this policy.**

C. Presumptive Sentence: . . . Similarly, when the current conviction offense is a severity level VI drug crime ~~or sale of cocaine~~ and there was a previous adjudication of guilt for a felony violation of Chapter 152 or a felony-level attempt or conspiracy to violate Chapter 152, or was convicted elsewhere for conduct that would have been a felony under Chapter 152 if committed in Minnesota (see Minn. Stat. § 152.01, subd. 16a) before the current offense occurred, the presumptive disposition is Commitment to the Commissioner of Corrections. . . .

☞ **Section II.E. is modified to simplify the explanation of how mandatory minimums are applied under the guidelines.**

E. Mandatory Sentences: When an offender has been convicted of an offense with a mandatory minimum sentence of one year and one day or more, the presumptive disposition is commitment to the Commissioner of Corrections. ~~‡The presumptive duration of the prison sentence should be the mandatory minimum sentence according to statute one year and one day or the duration of prison sentence provided in the appropriate cell of the Sentencing Guidelines Grid, whichever is longer.~~

~~When an offender has been convicted of an offense with a mandatory minimum sentence of three years, the presumptive duration of the prison sentence should be 36 months or the duration provided in the appropriate cell of the Sentencing Guidelines Grid, whichever is longer.~~

~~When an offender has been convicted of an offense with a mandatory minimum sentence of five years, the presumptive duration of the prison sentence should be 60 months or the duration provided in the appropriate cell of the Sentencing Guidelines Grid, whichever is longer. First degree murder, and certain sex offenders convicted under Minn. Stat. § 609.346, subd. 2a, which have a mandatory life imprisonment sentence, are excluded from offenses covered by the sentencing guidelines.~~

☞ **The Commission adopted a proposal to amend the section on consecutive sentencing to reflect policy that is less confusing, more consistent, and easier to apply. Highlights of the new policy include:**

- Lessens confusion and increases consistency by having all offenses sentenced in the order in which they occurred, regardless of whether the sentences are consecutive or concurrent.
- Clarifies that only offenses that are presumptive commit under the guidelines will be permissive consecutive.
- Eliminates the requirement that consecutive sentencing involve separate victims. It will be permissive to sentence current separate crimes against a person consecutively regardless of whether the crimes involve the same victim.
- Expands criteria for permissive consecutive sentences: any offense committed while on escape status that carries a presumptive disposition of commitment to the Commissioner of Corrections can be made consecutive to the sentence for the escape conviction or consecutive to the sentence for which the offense was confined.
- To ensure that escapes involving violence would always be covered under the permissive consecutive policy, the severity level for escapes with violence will be increased from severity level VI to severity level VII.

 ***The language changes to the consecutive policy are as follows:***

F. Concurrent/Consecutive Sentences: When an offender is convicted of multiple current offenses, or when there is a prior felony sentence which has not expired or been discharged, concurrent sentences shall be given in all cases not covered below. ~~The most severe offense among multiple current offenses determines the appropriate offense severity level for purposes of determining the presumptive guideline sentence.~~

~~Consecutive sentences may be given only in the following cases:~~

- ~~1. When a prior felony sentence for a crime against a person has not expired or been discharged and one or more of the current felony convictions is for a crime against a person, and when the sentence for the most severe current conviction is executed according to the guidelines; or~~
- ~~2. When the offender is convicted of multiple current felony convictions for crimes against different persons, and when the sentence for the most severe current conviction is executed according to the guidelines; or~~
- ~~3. When the conviction is for escape from lawful custody, as defined in Minn. Stat. §~~

~~609.485, unless the offender escaped from an executed prison sentence. If the escape sentence is to be served concurrently with other sentences, the presumptive duration shall be that indicated by the appropriate cell of the Sentencing Guidelines Grid.~~

~~When the conviction is for escape from lawful custody, as defined in Minn. Stat. § 609.485, and the offender escaped from an executed prison sentence, it is presumptive for the sentence to be consecutive to the sentence for which the inmate was confined at the time the new escape offense was committed. The presumptive disposition for escapes from executed sentences shall be execution of the escape sentence.~~

~~It is also presumptive for the sentence for a felony conviction resulting from a crime committed by an inmate serving an executed prison sentence at a state correctional facility, or while on escape status from such a facility, to be consecutive to the sentence for which the inmate was confined at the time the new offense was committed. A concurrent sentence under these circumstances constitutes a departure from the presumptive sentence. A special, nonexclusive, mitigating departure factor may be used by the judge to depart from the consecutive presumption and impose a concurrent sentence: there is evidence that the defendant has provided substantial and material assistance in the detection or prosecution of crime.~~

There are two situations in which consecutive sentences are presumptive; there are four situations in which consecutive sentences are permissive. The use of consecutive sentences in any other case constitutes a departure from the guidelines and requires written reasons pursuant to Minn. Stat. § 244.10, subd. 2 and section E of these guidelines.

When consecutive sentences are imposed, offenses are sentenced in the order in which they occurred.

~~For persons given consecutive sentences, the sentence durations for each separate offense sentenced consecutively shall be aggregated into a single presumptive sentence. The presumptive duration for offenses sentenced consecutively is determined by locating the Sentencing Guidelines Grid cell defined by the most severe offense and the offender's criminal history score and by adding to the duration shown therein the duration indicated for every other~~

~~offense sentenced consecutively at their respective levels of severity but at the zero criminal history column on the Grid. The purpose of this procedure is to count an individual's criminal history score only one time in the computation of consecutive sentence durations.~~

~~For persons given presumptive consecutive sentences, the presumptive duration is determined by a criminal history score of one rather than at the zero criminal history column on the Grid.~~

~~When a current conviction is sentenced consecutive to a prior indeterminate or presumptive sentence, the presumptive duration for the current conviction is determined by locating the severity level appropriate to the current conviction offense and the zero criminal history column or the mandatory minimum, whichever is greater.~~

For persons who, while on probation, parole, or incarcerated, pursuant to an offense committed on or before April 30, 1980, commit a new offense for which a consecutive sentence is imposed, service of the consecutive sentence for the current conviction shall commence upon the completion of any incarceration arising from the prior sentence.

Presumptive Consecutive Sentences

Consecutive sentences are presumptive in the following cases:

1. When the conviction is for escape from lawful custody, as defined in Minn. Stat. § 609.485 and the offender escaped from an executed prison sentence; or
2. When the conviction is for a crime committed by an inmate serving, or on escape status from, an executed prison sentence.

Consecutive sentences are presumptive under the above criteria only when the presumptive disposition for the current offense(s) is commitment to the Commissioner of Corrections as determined under the procedures outlined in section II.C. The presumptive disposition for escapes from executed sentences, however, is always commitment to the Commissioner of Corrections.

Under the circumstances above, it is presumptive for the sentence to be consecutive to the

sentence for which the inmate was confined at the time the escape or other new offense was committed. A concurrent sentence under these circumstances constitutes a departure from the presumptive sentence except if the total time to serve in prison would be longer if a concurrent sentence is imposed in which case a concurrent sentence is presumptive. A special, nonexclusive, mitigating departure factor may be used by the judge to depart from the consecutive presumption and impose a concurrent sentence: there is evidence that the defendant has provided substantial and material assistance in the detection or prosecution of crime.

For each presumptive consecutive offense sentenced consecutive to another offense(s), a criminal history score of one, or the mandatory minimum for the offense, whichever is greater, shall be used in determining the presumptive duration. For persons sentenced under Minn. Stat. § 609.229, subd. 3 where there is a sentence for an offense committed for the benefit of a gang, the presumptive duration for the underlying crime with the highest severity level if sentenced consecutively, would include additional months as outlined in Section II.G and using the respective criminal history score appropriate for consecutive sentencing.

Permissive Consecutive Sentences

Except when consecutive sentences are presumptive, consecutive sentences are permissive (may be given without departure) only in the following cases:

1. A current felony conviction for a crime against a person may be sentenced consecutively to a prior felony sentence for a crime against a person which has not expired or been discharged; or
2. Multiple current felony convictions for crimes against persons may be sentenced consecutively to each other; or
3. A current felony conviction for escape from lawful custody, as defined in Minn. Stat. § 609.485, when the offender did not escape from an executed prison sentence, may be sentenced consecutively to the sentence for the offense for which the offender was confined; or
4. A current felony conviction for a crime committed while on felony escape from lawful

custody, as defined in Minn. Stat. § 609.485, from a nonexecuted felony sentence may be sentenced consecutively to the sentence for the escape or for the offense for which the offender was confined.

Consecutive sentences are permissive under the above criteria only when the presumptive disposition for the current offense(s) is commitment to the Commissioner of Corrections as determined under the procedures outlined in section II.C. If the judge pronounces a consecutive stayed sentence in these circumstances, the stayed sentence is a mitigated dispositional departure, but the consecutive nature of the sentence is not a departure if the offense meets one of the above criteria. The consecutive stayed sentence begins when the offender completes the term of imprisonment and is placed on supervised release.

For each offense sentenced consecutive to another offense(s), other than those that are presumptive, a zero criminal history score, or the mandatory minimum for the offense, whichever is greater, shall be used in determining the presumptive duration. The purpose of this procedure is to count an individual's criminal history score only one time in the computation of consecutive sentence durations. For persons sentenced under Minn. Stat. § 609.229, subd. 3 where there is a sentence for an offense committed for the benefit of a gang, the presumptive duration for the underlying crime with the highest severity level if sentenced consecutively, would include additional months as outlined in Section II.G and using the respective criminal history score appropriate for consecutive sentencing. The presumptive duration for each offense sentenced concurrently shall be based on the offender's criminal history as calculated by following the procedures outlined in II.B.

***II.F.01.** . . . For felony convictions committed while an offender is serving, or on escape status from, an executed prison sentence at any correctional facility or while on escape status from such a facility, it is presumptive to impose the sentence for the current offense consecutive to the sentence to the sentence for which the inmate was confined at the time the new offense was committed. . . .*

In all cases the Commission suggests that judges consider carefully whether the purposes of the sentencing guidelines (in terms of punishment proportional to the severity of the offense and the criminal history) would be served best by concurrent rather than consecutive sentences.

~~II.F.02. The guidelines provide that when one judge gives consecutive sentences in cases involving multiple current convictions, sentence durations shall be aggregated into a single fixed presumptive sentence. Moreover, the Commission recommends that when an offender is~~

~~charged with multiple offenses within the same judicial district the trials or sentencings be consolidated before one judge, whenever possible. This will allow the judge to perform the aggregation process described in the guidelines if consecutive sentences are given.~~

~~The order of sentencing when consecutive sentences are imposed by the same judge is to sentence the most severe conviction offense first in the order in which the offenses occurred. For persons given permissive consecutive sentences, †The presumptive duration for the conviction each offense sentenced consecutive to another offense(s) is determined by the severity level appropriate to the conviction offense at the zero criminal history score of the offender column, or the mandatory minimum, whichever is greater.~~

~~For each presumptive consecutive offense sentenced consecutive to another offense(s), the presumptive duration is determined by a criminal history score of one rather than at the zero criminal history column on the Grid, or the mandatory minimum, whichever is greater. For persons sentenced under Minn. Stat. § 609.229, subd. 3 where there is a sentence for an offense committed for the benefit of a gang, the presumptive duration for the underlying crime with the highest severity level if sentenced consecutively would include additional months as outlined under Section II.G. and using the respective criminal history score appropriate for consecutive sentencing. When there are multiple offenses at the highest severity level, the earliest occurring offense among those at the highest severity level shall be sentenced first. After sentencing the most severe offense or the earliest occurring offense among those at the highest severity level, subsequent sentences shall be imposed in the order in which the offenses occurred. A zero criminal history score shall be used in determining the presumptive duration for each subsequent offense sentenced consecutively.~~

~~When concurrent and consecutive sentences are imposed for different offenses, the most severe offense involving consecutive sentencing shall be sentenced first. When there are multiple offenses at the highest severity level, the earliest occurring offense among those at the highest severity level shall be sentenced first. After sentencing the most severe offense or the earliest occurring offense among those at the highest severity level, subsequent sentences shall be imposed in the order in which the offenses occurred. The presumptive duration for each offense sentenced consecutively shall be based on a zero criminal history score. The presumptive duration for each offense sentenced concurrently shall be based on the offender's criminal history as calculated by following the procedures outlined in II.B.~~

~~If multiple trials or sentencings cannot be consolidated before one judge, and if two or more judges give presumptive sentences some of which are given consecutively to others, the following method can be used:~~

~~The second or subsequent judge can pronounce the durations indicated in the Sentencing Guidelines Grid at the zero criminal history column for the severity level for the current offense, and can state that this sentence would be consecutive to the previous presumptive sentence. The service of the consecutive sentence begins at the end of any incarceration arising from the first sentence. The institutional records officer will aggregate the separate durations into a single fixed presumptive sentence, as well as aggregate the terms of imprisonment and the periods of supervised release. For example, if the Judge A executed a 44 month fixed presumptive sentence, and Judge B later executes a 24 month fixed presumptive sentence to be served consecutively to the first sentence, the records officer has the authority to aggregate those the sentences into a single 68 month fixed presumptive sentence, with a specified minimum 45.3 month term of imprisonment and a specified maximum 22.7 month period of~~

supervised release.

~~Under this method, if the most severe current offense is sentenced first, the resulting aggregated sentence lengths would be the same as if one judge had sentenced the offenses consecutively.~~

~~It is permissive for a sentence for an escape conviction from a nonexecuted prison sentence to be consecutive to any other current sentence and any prior sentence regardless of whether the other sentences are for crimes against the person. It is presumptive for a sentence for an escape conviction from an executed prison sentence to be consecutive to the sentence for which the inmate was confined at the time the new offense was committed. If the sentencing judge determines that the sentence for an escape conviction is to be consecutive with sentences for other current felony convictions, the escape conviction should be sentenced last with the presumptive duration found at the zero criminal history column and the appropriate severity level. For persons given presumptive consecutive sentences, the presumptive duration is determined by a criminal history score of one rather than at the zero criminal history column on the Grid.~~

~~In all cases the Commission suggests that judges consider carefully whether the purposes of the sentencing guidelines (in terms of punishment proportional to the severity of the offense and the criminal history) would be served best by concurrent rather than consecutive sentences.~~

~~**II.F.03.** For cases with a prior felony sentence, which has neither expired nor been discharged, and a single current conviction, and when the current conviction is sentenced consecutive to the prior, the presumptive duration for the current conviction is found at the zero criminal history column and the appropriate severity level, unless the consecutive sentence is presumptive. For person given presumptive consecutive sentences, the presumptive duration is determined by a criminal history score of one rather than at the zero criminal history column on the Grid. The service of the consecutive sentence begins at the end of any incarceration arising from the first sentence. The Commissioner of Corrections has the authority to establish policies regarding durations of confinement for persons sentenced for crimes committed before May 1, 1980, and will continue to establish policies for the durations of confinement for persons revoked and reimprisoned while on parole or supervised release, who were imprisoned for crimes committed on or after May 1, 1980.~~

~~If an offender is under the custody of the Commissioner of Corrections pursuant to a sentence for an offense committed on or before April 30, 1980, and if the offender is convicted of a new felony committed on or after May 1, 1980, and is given a presumptive sentence to run consecutively to the previous indeterminate sentence, the phrase "completion of any incarceration arising from the prior sentence" means the target release date which the Commissioner of Corrections assigned to the inmate for the offense committed on or before April 30, 1980 or the date on which the inmate completes any incarceration assigned as a result of a revocation of parole connected with the preguidelines offense.~~

The presumptive disposition for escapes from executed sentences is commitment to the Commissioner of Corrections. It is presumptive for an escape from an executed prison sentence to be consecutive to the sentence for which the inmate was confined at the time the new offense was committed. Consecutive sentences are also presumptive for a crime committed by an inmate serving, or on escape status from, an executed prison sentence if the presumptive disposition for the crime is commitment to the Commissioner of Corrections as determined under the procedures outlined in section II.C..

In certain situations a concurrent sentence would result in an offender serving longer in prison than a consecutive sentence and in such situations a concurrent sentence is presumptive. For example, an inmate has four months left to serve before release on the first offense. The new offense is a severity level IV crime and the inmate's criminal history score is five. If sentenced concurrently, the presumptive duration would be 32 months, the term of imprisonment would be 21 months and because the sentence runs concurrently with the first offense, the total time to be served would be 21 months. If the new offense were sentenced consecutively, the presumptive duration would be 15 months, the term of imprisonment would be 10 months and adding the 10 months to the four months left to serve on the first offense would equal 14 months or 7 months less than the time to be served under concurrent sentencing. In a situation like this example, concurrent sentencing would be presumptive.

For persons given presumptive consecutive sentences, the presumptive duration is determined by a criminal history score of one, or the mandatory minimum, whichever is greater.

~~II.F.04. The sentencing guidelines provide that sentences must be stayed or imposed if they are to be used in computing the criminal history score. When multiple convictions are sentenced concurrently, separate sentences arising out of separate behavioral incidents must be stayed or imposed on each conviction if they are to be used in computing future criminal history scores. If an offender is convicted of two offenses arising from separate behavioral incidents, but the judge stayed or imposed a sentence for only one conviction, only one point would accrue to the prior felony sentences item in the computation of a future criminal history score. If the judge stayed or imposed a sentence for each conviction offense in this example, then two points would accrue to the prior felony sentences item in future criminal history score computation.~~

~~The phrase "multiple current felony convictions" means two or more cases in which the defendant has been found guilty by verdict or by a finding of the Court following trial, or in which the defendant has entered a plea of guilty, and for which sentences have not been stayed or imposed. Multiple current convictions may occur before one Court or two or more Courts.~~

The Commission's policy on permissive consecutive sentencing outline the criteria that are necessary to permit consecutive sentencing without the requirement to cite reasons for departure. Judges may pronounce consecutive sentences in any other situation by citing reasons for departure. Judges may also pronounce durational and dispositional departures both upward and downward in cases involving consecutive sentencing if reasons for departure are cited. The reasons for each type of departure should be specifically cited. The procedures for departures are outlined in Section II.D. of the guidelines.

If the presumptive disposition for an escape conviction from a nonexecuted prison sentence is commitment to the Commissioner of Corrections, it is permissive for the sentence to be consecutive to the offense for which the offender was confined regardless of whether the other sentence is for a crime against the person. The presumptive duration for the escape is found at the zero criminal history column and the appropriate severity level. In addition to making the sentence for the escape offense consecutive to the sentence for which the offender was confined, it is also permissive to pronounce a sentence for any offense committed while on escape status that carries a presumptive disposition of commitment to the Commissioner of Corrections, consecutive to the sentence for the escape conviction or consecutive to the sentence for which the offender was confined.

II.F.05. The Commissioner of Corrections has the authority to establish policies regarding durations of confinement for persons sentenced for crimes committed before May 1, 1980, and will continue to establish policies for the durations of confinement for persons revoked and reimprisoned while on parole or supervised release, who were imprisoned for crimes committed on or after May 1, 1980.

If an offender is under the custody of the Commissioner of Corrections pursuant to a sentence for an offense committed on or before April 30, 1980, and if the offender is convicted of a new felony committed on or after May 1, 1980, and is given a presumptive sentence to run consecutively to the previous indeterminate sentence, the phrase "completion of any incarceration arising from the prior sentence" means the target release date which the Commissioner of Corrections assigned to the inmate for the offense committed on or before April 30, 1980 or the date on which the inmate completes any incarceration assigned as a result of a revocation of parole connected with the preguidelines offense.

II.F.05. 06. Minn. Stat. § 624.74 provides for a maximum sentence of three years or payment of a fine of \$3000 or both, for possession or use of metal-penetrating bullets during the commission of a crime. Any executed felony sentence imposed under Minn. Stat. § 624.74 shall run consecutively to any felony sentence imposed for the crime committed with the weapon, thus providing an enhancement to the sentence imposed for the other offense. The extent of enhancement, up to the three year statutory maximum, is left to the discretion of the Court. If, for example, an offender were convicted of Aggravated Robbery in the First Degree with use of a gun and had a zero criminal history score, ~~the mandatory minimum sentence and~~ the presumptive sentence for the offense would be ~~36~~ 48 months; if the offender were also convicted of Minn. Stat. § 624.74, Metal-Penetrating Bullets, the Court could, at its discretion, add a maximum of 36 months, without departing from the guidelines.

~~**II.F.06.** The criterion that crimes must be against different persons for permissive consecutive sentencing is designed to exclude consecutive sentences in two types of situations. One type involves multiple offenses against a victim in a single behavioral incident such as burglary with a dangerous weapon and aggravated robbery with bodily harm. The requirement of different victims is also intended to exclude consecutive sentences in domestic abuse and child abuse situations when there are multiple incidents perpetrated against a victim over time. Assault, criminal sexual conduct, and incest are the conviction offenses most frequently found in domestic abuse and child abuse cases. Multiple incidents against a victim typifies these types of situations. In fact, one criminal sexual conduct provision delineates multiple incidents as an element of the offense. The high severity rankings assigned to offenses that tend to involve very young victims reflect the understanding that multiple incidents generally occur in these kinds of situations. The Commission believes that a uniform policy reflected in high severity rankings provides the best approach in sentencing these cases. Permissive consecutive sentences would result in enormous disparity based on varying charging practices of prosecutors and discretionary judicial decisions.~~

~~There are rare instances in which multiple person crimes are committed at different times against a victim in other than a domestic abuse or child abuse situations. For example, a pharmacist could be a victim of an aggravated robbery at one point and some time later be robbed by the same offender a second time. Circumstances such as these are clearly atypical. In the rare instances in which this type of situation occurs, consecutive sentencing is permissive under the guidelines.~~

 ***The Commission modified the sentencing guidelines grid to display severity levels in descending order. This reversed grid will more clearly reflect the emphasis of the sentencing guidelines to sanction more harshly the serious violent offenders. The text of the guidelines was also modified in appropriate places to properly reference whether policies apply to “above” or “below” the dispositional line. A copy of the new grid is presented on the next page.***

☞ **The Commission adopted the following severity level rankings:**

Severity Level X

Murder 2 (intentional murder, drive-by shootings) - 609.19 ~~(1)~~, subd. 1

Severity Level IX

Murder 2 (unintentional murder) - 609.19 ~~(2) & (3)~~, subd. 2

Severity Level VII

Escape from Custody - 609.485, subd. 4(b)

Severity Level VI

~~Escape from Custody - 609.485, subd. 4(b)~~

Severity Level IV

~~Accidents - 169.09, subd. 14 (a) (1)~~

~~Assault 3 - 609.223, subd. 1, 2, & 3~~

~~Assault 5 (3rd or subsequent violation) - 609.224, subd. 4~~

~~Certain Persons Not to Have Firearms - 624.713, subd. 1 (b); 609.165, subd. 1b~~

~~Criminal Sexual Conduct 5 - 609.3451, subd. 3~~

~~Indecent Exposure in Presence of Minor - 617.23, (c)~~

~~Receiving Stolen Goods (over \$2,500) - 609.53~~

~~Receiving Stolen Property (firearm) - 609.53~~

~~Theft Crimes - Over \$2,500 (See *Theft Offense List*)~~

Severity Level III

~~Accidents - 169.09, subd. 14 (a) (2)~~

~~Dangerous Weapons/Certain Persons Not to Have Firearms - 609.67, subd. 2; 624.713, subd. 1(a) & (b); 609.165, subd. 1b~~

~~Firearm Silencer (public housing, school zone, or park zone) - 609.66, subd. 1a ~~(b)~~ (a) (1)~~

~~Possession of Code Grabbing Devices - 609.586, subd. 2~~

~~Receiving Stolen Goods (~~\$2,500 or less~~) (over \$2,500) - 609.53~~

~~Receiving Stolen Property (firearm) - 609.53~~

~~Theft Crimes - Over \$2,500 (See *Theft Offense List*)~~

~~Theft Related Crimes - Over \$2,500 (See *Theft Related Offense List*)~~

Severity Level II

Accidents - 169.09, subd. 14 a ~~(3)~~ & ~~(b)~~-(1)
Cellular Counterfeiting 1 - 609.894, subd. 4
Discharge of Firearm (public housing, school zone, or park zone) - 609.66, subd. 1a
~~(b)(1)~~ (a)(2) & (3)
Discharge of Firearm (intentional) - 609.66, subd. 1a (a) (2)
Receiving Stolen Goods (\$2,500 or less) - 609.53
Theft Crimes - \$2,500 or less (See Theft Offense List)
Theft Related Crimes - \$2,500 or less (See Theft Related Offense List)

Severity Level I

Accidents - 169.09, subd. 14 (a) ~~(b)~~ (2)
Assault ~~3~~ - 609.223, subd. ~~2~~ & ~~3~~
Assault 4 - 609.2231, subd. 1, 2 & 3
Assault ~~5 (3rd or subsequent violation)~~ - 609.224, subd. 4
Cellular Counterfeiting 2 - 609.894, subd. 3
Discharge of Firearm (reckless) - 609.66, subd. 1a (a) ~~(2)~~ & ~~(3)~~
Nonsupport of Spouse or Child - 609.375, subd. 2a

 ***The Commission eliminated the distinction between Theft and Theft Related Offenses and now all theft and theft related crimes are included on the Theft Offense List. Theft Crimes are ranked at severity level II or III depending on the dollar loss.***

Theft Offense List

Defeating Security on Personalty
609.62

Defeating Security on Realty
609.615

Defrauding Insurer
609.611

False Representations
268.18, subd. 3

Federal Food Stamp Program
393.07, subd. 10

Financial Transaction Card Fraud
609.821, subd. 2(1), (2), (5), (6), (7), & (8)

Fraud in Obtaining Credit
609.82

Medical Assistance Fraud
609.466

Presenting False Claims to Public Officer or Body
609.465

Refusing to Return Lost Property
609.52, subd. 2(6)

Taking Pledged Property
609.52, subd. 2(2)

Telecommunications and Information Services Fraud
609.893, subd. 1

Temporary Theft
609.52, subd. 2(5)

Theft by Check
609.52, subd. 2(3) (a)

Theft by False Representation
609.52, subd. 2 (3), (b), (c), (d), & (e)

Theft of Cable TV Services
609.52, subd. 2(12)

Theft of Leased Property
609.52, subd. 2(9)

Theft of Services
609.52, subd. 2(13)

Theft of Telecommunications Services
609.52, subd. 2(14)

Theft from Coin Operated Machines
609.52, subd. 2 (7)

Workers Compensation Fraud
176.178

Wrongfully Obtaining Assistance
256.98



The entire Theft Related Offense List is deleted because the crimes contained in the list become part of the Theft Offense List.

Theft Related Offense List

It is recommended that the following property crimes be treated similarly. This is the list cited for the two THEFT RELATED CRIMES (\$2,500 or less and over \$2,500) in the Offense Severity Reference Table.

~~Defeating Security on Personalty
609.62~~

~~Defeating Security on Realty
609.615~~

~~Defrauding Insurer
609.611~~

~~False Representations
268.18, subd. 3~~

~~Federal Food Stamp Program
393.07, subd. 10~~

~~Financial Transaction Card Fraud
609.821, subd. 2(1), (2), (5), (6), (7), & (8)~~

~~Fraud in Obtaining Credit
609.82~~

~~Medical Assistance Fraud
609.466~~

~~Presenting False Claims to Public Officer or Body
609.465~~

~~Refusing to Return Lost Property
609.52, subd. 2(6)~~

~~Taking Pledged Property
609.52, subd. 2(2)~~

~~Telecommunications and Information Services Fraud
609.893, subd. 1~~

~~Temporary Theft
609.52, subd. 2(5)~~

~~Theft by Check
609.52, subd. 2(3)(a)~~

~~Theft by False Representation
609.52, subd. 2 (3), (b), (c), (d), & (e)~~

~~Theft of Cable TV Services~~

~~609.52, subd. 2(12)~~

~~Theft of Leased Property
609.52, subd. 2(9)~~

~~Theft of Services
609.52, subd. 2(13)~~

~~Theft of Telecommunications Services
609.52, subd. 2(14)~~

~~Workers Compensation Fraud
176.178~~

~~Wrongfully Obtaining Assistance
256.98~~



The Commission adopted the following revisions to the Misdemeanor and Gross Misdemeanor Offense List:

Assault in the Fourth Degree
609.2231, subd. ~~2~~, 2a, 4, 5, & 6

Certain Persons Not to Possess Firearms
624.713, subd. 2

Criminal Vehicular Homicide and Injury (bodily harm)
609.21, subd. 2b

Harassment/Stalking
609.749, subd. 2 & 8

OTHER ADOPTED MODIFICATIONS - EFFECTIVE AUGUST 1, 1997,

AFTER REVIEW BY THE 1997 LEGISLATURE

- ☞ **The Commission adopted the proposal to place the following inadvertently unranked crime on the list of unranked crimes:**

Refusal to assist - 6.53

- ☞ **The Commission adopted the proposal to place the following crime on the Misdemeanor and Gross Misdemeanor Offense List:**

Malicious Punishment of a Child
609.377

- ☞ **The Commission adopted the proposal to clarify that the policy for calculating adult felony criminal history points when circumstances involve a single behavioral incident with multiple victims, also applies to the juvenile and misdemeanor point calculation.**

II.B.307. In order to provide a uniform and equitable method of computing criminal history scores for all cases of multiple convictions arising from a single course of conduct when single victims are involved, consideration should be given to the most severe offense for purposes of computing criminal history. When there are multiple misdemeanor or gross misdemeanor sentences arising 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 findings.

II.B.407. In order to provide a uniform and equitable method of computing criminal history scores for all cases of multiple felony offenses with findings arising from a single course of conduct when single victims are involved, consideration should be given to the most severe offense with a finding for purposes of computing criminal history. When there are multiple felony offenses with findings arising out of a single course of conduct in which there were multiple victims, consideration should be given only for the two most severe felony offenses with findings for purposes of computing criminal history. These are the same policies that apply to felony, gross misdemeanor and misdemeanor convictions for adults.

☞ **The Commission adopted the proposal to clarify that Minnesota felony level offenses that can only be committed by juveniles should be included in calculating juvenile criminal history points.**

4. The offender is assigned one point for every two offenses committed and prosecuted as a juvenile that ~~would have been felonies if committed by an adult~~ are felonies under Minnesota law, provided that: . . .

II.B.402. *First, only juvenile offenses that ~~would have been felonies if committed by an adult~~ 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. . . .*

☞ **The Commission adopted the proposal to clarify that Federal felony offenses that have no equivalent or similar offense in Minnesota should be included in the criminal history score.**

II.B.503. *It was concluded, therefore, that designation of out-of-state offenses as felonies or lesser offenses, for purposes of the computation of the criminal history index score, must properly be governed by Minnesota law. The exception to this would be Federal felony crimes for which there is no comparable Minnesota Felony offense. Sentences given for these crimes that are felony level sentences according to Minnesota law shall be given a weight of one point for purposes of calculating the criminal history score.*

OTHER ADOPTED MODIFICATIONS - EFFECTIVE SINCE AUGUST 1, 1995

 ***The Commission adopted the following severity level ranking:***

Effective 12\13\95

Severity Level IV

Domestic Assault - 609.2242, subd. 4

 ***The Commission added the following offense to the Misdemeanor and Gross Misdemeanor Offense List:***

Effective 1/12/96

Domestic Assault
609.2242, subd. 1 & 2