

History of Minn. Stat. § 609.11's mandatory minimum penalties, 1974–present

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2025–26 Task Force on
Mandatory Minimum Sentences

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Before 1974 ...

Minn. Stat. § 609.11 simply read, “All commitments to the commissioner of corrections for imprisonment of the defendant are without minimum terms except when sentence is to life imprisonment as required by law.”

1963 Original

The legislature created today's basic structure: Violating a listed crime, when accompanied by some sort of weapon use or possession, will result in a mandatory minimum penalty.

1974 List

1969 Exception

A three-year mandatory minimum sentence for possessing a firearm when committing an intentional felony. This was later expanded to include discharging explosives.

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What is the purpose of the offense list?

- Not explicitly stated, but it is described as a “crime of violence” list elsewhere in statute (Minn. Stat. §§ 588.20 & 609.495)

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Terms used in this slide deck

- “Mandatory minimum” (or “mand. min.”) means that the Legislature requires a particular minimum sentence. Despite the word “mandatory,” however, the Legislature may have provided a waiver option.
- “Waivable” means the Legislature provided a waiver option.
- “Dangerous weapon” is shorthand for “dangerous weapon other than a firearm”; *i.e.*,
 - Something designed as a weapon and capable of producing death or great bodily harm;
 - Anything else that, as used or intended to be used, is calculated or likely to produce death or great bodily harm; or
 - A fire used to produce death or great bodily harm

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Minn. Stat. § 609.11: 1974–1975

- Committing a listed crime while **using a dangerous weapon** or **possessing a firearm: 3-year** mand. min.
- **Waivable** if no prior conviction—
 - involving firearm possession (game laws excepted)
 - involving dangerous-weapon use, or
 - for any of the listed offenses (regardless of weapon use)



ORIGINAL OFFENSE LIST

- Murder 2–3 & manslaughter
- Aggravated assault & robbery
- Kidnapping
- Rape & sodomy
- Burglary
- Escape while under charge or conviction of a felony
- Discharge of an explosive or incendiary device

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Minn. Stat. § 609.11: 1975–1979

- Committing a listed crime while **using a dangerous weapon** or **possessing a firearm: 1-year & 1-day** mand. min.; **3-year** mand. min. if repeat conviction
- **No mand.-min. waiver provision**



OFFENSE LIST

- Murder 2–3 & manslaughter
- Aggravated assault & robbery
- Kidnapping
- Rape & sodomy (changed to Crim Sex 1–3 in 1977)
- Burglary
- Escape while under charge or conviction of a felony
- Discharge of an explosive or incendiary device

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Minn. Stat. § 609.11: 1979–1981

- Committing a listed crime while **defendant/accomplice used a dangerous weapon or possessed a firearm: 1-year & 1-day mand. min.; 3-year mand. min. if repeat conviction**
- No mand.-min. waiver provision

Two important legal changes. It doesn't matter:

- Which accomplice is holding the weapon; or
- Whether the crime was completed or not

OFFENSE LIST

- Murder 2–3 & manslaughter
- Aggravated assault & robbery
- Kidnapping
- Crim sex 1–3
- Burglary
- Escape while under charge or conviction of a felony
- Discharge of an explosive or incendiary device

... attempts are included!

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Minn. Stat. § 609.11: 1981–1989

- Committing a listed crime while defendant/accomplice **used a dangerous weapon or possessed a firearm: 1-year & 1-day waivable mand. min.; 3-year waivable mand. min. if repeat conviction**
- **Committing a listed crime while defendant/accomplice used a firearm: 3-year waivable mand. min.; 5-year waivable mand. min. if repeat conviction**

For the first time:
all waivable

New 3- & 5-year tier for
using a firearm (not just
possessing it)

SUBD. 9 OFFENSE LIST

- Murder & manslaughter
- Assault 1–3 & robbery
- Kidnapping & **false imprisonment**
- Crim sex 1–3 (exception for sig. relationship & prohibited-occupational-relationship cases added in 1986, but psychotherapist cases remained included)
- Burglary & **arson 1–3**
- Escape **from custody**

... attempts are included!

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Minn. Stat. § 609.11: 1989–1994

- Committing a listed crime while defendant/accomplice **used a dangerous weapon** or **possessed a firearm**: **1-year & 1-day waivable** mand. min.; **3-year waivable** mand. min. if repeat conviction
- Committing a listed crime while defendant/accomplice **used a firearm**: **3-year waivable** mand. min.; **5-year waivable** mand. min. if repeat conviction

Drug crimes: A big addition to the (formerly violent) offense list ...

... two years after similar change to 624.712 “violent crime” list (a conviction disqualifies firearms possession)

SUBD. 9 OFFENSE LIST

- Murder & manslaughter
- Assault 1–3 & robbery
- Kidnapping & false imprisonment
- Crim sex 1–3, **except** significant-relationship & prohibited-occupational-relationship cases, **but including** psychotherapist cases
- Burglary & arson 1–3
- Escape from custody
- **Felony drug offenses**
... *attempts are included!*

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Minn. Stat. § 609.11: 1994–1997

- Committing a listed crime while defendant/accomplice **used a dangerous weapon**: **1-year & 1-day waivable*** mand. min.; **3-year nonwaivable** mand. min. if repeat conviction
- Committing a listed crime while defendant/accomplice **possessed a firearm**: **3-year waivable*** mand. min.; **5-year nonwaivable** mand. min. if repeat conviction

* *But nonwaivable if defendant had previously been convicted of a listed crime in which the defendant possessed a firearm or other dangerous weapon.*

Firearm possession gets equated to firearm use, not other-dangerous-weapon use

Introducing the current complex system of nonwaivability (see Table 2 from September’s handout)

SUBD. 9 OFFENSE LIST

- Murder & manslaughter
- Assault 1–3, robbery, & **drive-by shooting**
- Kidnapping & false imprisonment
- Crim sex 1–3, **except** significant-relationship & prohibited-occupational-relationship cases, **but including** psychotherapist cases
- Burglary & arson 1–3
- Escape from custody
- Felony drug offenses
... *attempts are included!*

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Minn. Stat. § 609.11: 1996–1998

- Committing a listed crime while defendant/accomplice **used a dangerous weapon: 1-year & 1-day waivable*** mand. min.; **3-year nonwaivable** mand. min. if repeat conviction
- Committing a listed crime while defendant/accomplice **possessed a firearm: 3-year waivable*** mand. min.; **5-year nonwaivable** mand. min. if repeat conviction
- Possessing a firearm after “crime of violence” conviction: **18-month waivable*** mand. min.; **5-year nonwaivable** mand. min. if repeat conviction

** But nonwaivable if defendant had previously been convicted of a listed crime in which the defendant possessed a firearm or other dangerous weapon.*

Ineligible firearms possession gets its own mandatory minimum structure

SUBD. 9 OFFENSE LIST

- Murder & manslaughter
- Assault 1–3, robbery, & drive-by shooting (aggravated stalking with a dangerous weapon added 1997)
- Kidnapping & false imprisonment
- Crim sex 1–3, **except** significant-relationship & prohibited-occupational-relationship cases, **but including** psychotherapist cases
- Burglary & arson 1–3
- Escape from custody & possession of a firearm after “crime of violence” conviction
- Felony drug offenses

... attempts are included!

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Minn. Stat. § 609.11: 1998–2015

- Committing a listed crime while defendant/accomplice **used a dangerous weapon: 1-year & 1-day waivable*** mand. min.; **3-year nonwaivable** mand. min. if repeat conviction
- Committing a listed crime while defendant/accomplice **possessed a firearm: 3-year waivable*** mand. min.; **5-year nonwaivable** mand. min. if repeat conviction
- Possessing a firearm after “crime of violence” conviction: **5-year waivable*** mand. min.

** But nonwaivable if defendant had previously been convicted of a listed crime in which the defendant possessed a firearm or other dangerous weapon.*

Penalty for first-time ineligible firearms possession gets much longer

SUBD. 9 OFFENSE LIST

- Murder & manslaughter
- Assault 1–3, robbery, drive-by shooting, & aggravated stalking with a dangerous weapon
- Kidnapping & false imprisonment
- Crim sex 1–3, **except** significant-relationship & prohibited-occupational-relationship cases, **but including** psychotherapist cases
- Burglary & arson 1–3
- **Witness tampering 1**, escape from custody, & possession of a firearm after “crime of violence” conviction
- Felony drug offenses

... attempts are included!

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Minn. Stat. § 609.11: 2015–2016

- Committing a listed crime while defendant/accomplice **used a dangerous weapon: 1-year & 1-day waivable*** mand. min.; **3-year nonwaivable** mand. min. if repeat conviction
 - Committing a listed crime while defendant/accomplice **possessed a firearm: 3-year waivable*** mand. min.; **5-year nonwaivable** mand. min. if repeat conviction
 - Possessing a firearm **or ammunition** after “crime of violence” conviction: **5-year waivable*** mand. min.
- * *But nonwaivable if defendant had previously been convicted of a listed crime in which the defendant possessed a firearm or other dangerous weapon.*

SUBD. 9 OFFENSE LIST

- Murder & manslaughter
- Assault 1–3, robbery, drive-by shooting, & aggravated harassment with a dangerous weapon
- Kidnapping & false imprisonment
- Crim sex 1–3, **except** significant-relationship & prohibited-occupational-relationship cases, **but including** psychotherapist cases
- Burglary & arson 1–3
- Witness tampering 1, escape from custody, & possession of a firearm **or ammunition** after “crime of violence” conviction
- Felony drug offenses
... attempts are included!

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Minn. Stat. § 609.11: 2016–present

- Committing a listed crime while defendant/accomplice **used a dangerous weapon: 1-year & 1-day waivable*** mand. min.; **3-year nonwaivable** mand. min. if repeat conviction
 - Committing a listed crime while defendant/accomplice **possessed a firearm: 3-year waivable*** mand. min.; **5-year nonwaivable** mand. min. if repeat conviction
 - Possessing a firearm or ammunition after “crime of violence” conviction: **5-year waivable*** mand. min.
- * *But nonwaivable if defendant had previously been convicted of a listed crime in which the defendant possessed a firearm or other dangerous weapon, **or if the crime is 1st- or 2nd-degree drug sale and defendant/accomplice possessed a firearm.***

SUBD. 9 OFFENSE LIST

- Murder & manslaughter
- Assault 1–3, robbery (**carjacking added 2023**), drive-by shooting, & aggravated harassment with a dangerous weapon
- Kidnapping & false imprisonment
- Crim sex 1–3, **except** significant-relationship & prohibited-occupational-relationship cases, **but including** psychotherapist cases
- Burglary & arson 1–3
- Witness tampering 1, escape from custody, & possession of a firearm or ammunition after “crime of violence” conviction
- Felony drug offenses
... attempts are included!

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Some possible questions for research and study ... others?

Mandatory Minimums

- What is their purpose? Are they meeting it?
- What is the purpose of the waivability structure? Can we simplify it?
- Should we treat people differently based on:
Prior record? Gun possession vs. gun use?
An accomplice had the gun? It was an attempt?

Offense List

- What is the purpose of the offense list? Is it meeting that purpose?
- Unlike the other crimes, there's nothing inherently violent about (most) drug crimes or ineligible firearms possession. Is that okay?

Ineligible Possession

For mandatory-minimum purposes:

- Should the time from prior conviction matter?
- Should the current circumstances matter?
- Should it matter if the prior is nonviolent (drug)?
- Should it matter if it's ammo, firearm, or both (loaded)?