

MEMORANDUM

To: Task Force Members
From: Nate Reitz, Task Force Chair
Date: June 5, 2026
Subject: **Replacing § 609.11 – Alternative Frameworks**

To be rational, a special penalty framework for committing crimes with firearms (or other dangerous weapons) ought to assign—

1. the **most serious penalties**
2. to those with the **most serious criminal histories**
3. who **most seriously involve firearms** (or other dangerous weapons)
4. in **committing the most serious crimes**.
5. Minnesota's existing special penalty framework for committing crimes with firearms or other dangerous weapons, Minn. Stat. § 609.11, does not do this. It cannot, because it was not designed to. I believe this task force can unify behind a § 609.11 replacement framework that is designed this way. Because Minnesota's Sentencing Guidelines already grade punishment by criminal history (#2 above) and offense severity (#4 above), they can serve as an effective starting point. All that remains is to determine what additional penalties (#1 above) should be assigned to what types of weapons involvement (#3 above).

This memo begins by recapping the § 609.11 replacement framework I proposed in April and May (beginning on p. 2), and then outlines an alternative framework for your consideration at the June 12 meeting (beginning on p. 4). Page 8 contains a nutshell summary table of both alternative frameworks.

The April/May framework:

**Firearm use + listed crime = five-year statutory maximum increase
(doubled if prior crime of violence)**

In April and May, I [proposed a framework](#) to replace the mandatory minimums in § 609.11. The April/May framework considers two types of **weapons involvement** and associated **penalties**.

1. **Using a firearm** to commit a designated crime,^a or while immediately fleeing from such a crime, increases the listed crime's statutory maximum penalty by **five years**.
2. Alternatively, an **accomplice's use of a firearm** to commit a designated crime, or while immediately fleeing from such a crime, would likewise increase the listed crime's statutory maximum penalty by five years—if the defendant aided the accomplice's firearm use.
3. If the defendant's use of the firearm to commit the listed crime^b was **disqualified due to a prior crime of violence conviction**, the statutory-maximum increase is **doubled** (increasing by another five years).

The case-level impact of these statutory-maximum increases would be up to the Sentencing Guidelines Commission, which would be directed to consider modifying how the Sentencing Guidelines address the use of a firearm in the commission of a designated crime in light of the new framework. One plausible scenario—based on a similar statutory-maximum increase framework for crimes committed for the benefit of a gang—is that the Commission would increase the Guidelines-recommended prison duration by twelve months for every five years that the statutory maximum penalty was increased.

Practical implications of the April/May framework

To visualize the impact of the April/May framework in practice, let us assume that the Commission chooses to follow the example of the gang modifier and assigns a twelve-month increase for every five years of statutory-maximum increase. In that case, here would be some practical effects of the April/May framework:

- For those who **possess firearms** when committing designated crimes, the Minn. Stat. § 609.11 mandatory minimums (3 or 5 years) would cease. The Sentencing Guidelines would apply to these crimes, without legislative involvement.
- For those who **use** (or who aid accomplices in using) firearms when committing designated crimes, the § 609.11 mandatory minimums would be replaced by a 12-month increase in the Guidelines-recommended sentence. This would be less significant for those in the shaded area of the

^a That is, a crime currently listed in Minn. Stat. § [609.11, subd. 9](#). To avoid double-counting, drive-by shooting and second-degree murder by drive-by shooting were excluded. They necessarily involve firearm use, so the Guidelines-recommended sentence already accounts for it.

^b To avoid double-counting, the designated crime cannot be possessing a firearm or ammunition after a crime of violence. It can, however, be a drive-by shooting crime.

[sentencing_grid](#)—*i.e.*, those with less serious offenses or lower criminal histories—because the Guidelines would still recommend a stayed sentence. On the other hand, those with higher criminal history scores who use a firearm to commit a designated crime, or those who commit more serious offenses—*e.g.*, second-degree murder, third-degree murder, manslaughter, rape, first-degree assault, carjacking, first-degree aggravated robbery, and burglary—by using a firearm, would be sentenced to an additional **year in prison**, if the sentencing court follows the Guidelines recommendation.

Note: This is precisely the opposite of the status quo: Under § 609.11, the mandatory minimums fall only on those with low criminal histories or those who commit low-severity offenses. Those with high criminal-history scores or those who commit high-severity offenses have, in effect, “graduated” from § 609.11; its mandatory minimums are swallowed up in the larger Guidelines-recommended sentence.

- For those who, **after a crime of violence** conviction or adjudication of delinquency, **possess ammunition or a firearm**, the 5-year mandatory minimum would cease. The Sentencing Guidelines would apply to these crimes, without legislative involvement.
- If a **firearm is used** to commit a designated crime, on the other hand, and that use is prohibited due to a prior crime of violence, the 12-month increase described above would be doubled—to 24 months^c—in lieu of the § 609.11 mandatory minimum. Again, this would impact those with higher criminal history scores or those who commit more serious offenses the most.

Note: Again, this is the opposite of the status quo. The only ones affected by the five-year mandatory minimum for possession of a firearm or ammunition after a crime of violence are those with lower criminal history scores or those who commit low-severity offenses. For those disqualified from firearms possession due to a prior crime of violence who use a firearm to commit one of the most serious designated crimes (see example list above), the § 609.11 five-year mandatory minimum is eclipsed—or nearly so—by the significant Guidelines-recommended prison term for those offenses. For these serious crimes—all ranked at or above severity level 8—a two-year increase in the Guidelines-recommended prison sentence would be a more severe sanction than § 609.11’s five-year mandatory minimum.

- For those who use dangerous weapons other than firearms when committing a designated crime, the § 609.11 mandatory minimums (1-year-and-one day or 3 years) would cease. The Sentencing Guidelines would apply to these crimes, without legislative involvement.
- Thus, for either of the two most common designated crimes, second-degree assault (which always involves using a firearm or other dangerous weapon) or possessing a firearm or ammunition after a crime of violence—both severity-level 6 offenses^d—the Guidelines would recommend a stayed sentence at criminal history scores of 2 and below. At higher criminal scores, the recommended sentence would quickly meet and exceed the existing mandatory minimums.

^c But just 12 months if the designated crime is possession of a firearm or ammunition after a crime of violence. See footnote b.

^d Second degree assault is ranked at severity level 6 unless substantial bodily harm results.

The June Alternative Framework:

The April/May framework, but with more types of weapon involvement, more penalties, and more direction to the Commission

Why an alternative framework?

It is my opinion that **the Task Force must arrive at a tentative policy agreement at our June 12 meeting to stay on schedule to complete our report by our [August 15 deadline](#)**. Doing so gives us a chance to ask MSGC to estimate the policy's impact numbers, run the statutory language past the Revisor's Office, and begin writing the final report before our July meeting, when we will conduct a full policy analysis and make a final decision. The August meeting will be for final wordsmithing of the report.

My experiences on several other task forces and working groups teach me that the likelihood of the enactment of this Task Force's legislative recommendations is linked to the degree of consensus with which we recommend them. If possible, I would like to speak with one voice. If we create the ideal policy document that sits on a shelf, we have failed. Our collective goal should be to arrive at recommendations that meaningfully improve the status quo, that everyone on the Task Force can live with, and that have a solid chance of being enacted into law.

To that end, I present the following framework as an alternative to the April/May framework for your consideration. It was written to be responsive to objections made at the May meeting. Although considerably different from the April/May framework, the June alternative framework is similar in that it also does what any special weapons penalty scheme ought to do (see page 1): it assigns the most serious penalties to those with the most serious criminal histories who most seriously involve dangerous weapons in committing the most serious crimes. By presenting you with two considerably different frameworks, both of which accomplish the basic functions that a special weapons penalty scheme rationally ought to accomplish, I hope to illustrate very different ways of accomplishing these functions. I preliminarily consider either to be superior to § 609.11, but I cannot give—or ask for—final support for any framework until we see the impact estimate in July. To get those impact numbers, though, we need to give tentative support to some policy framework—whether one of these alternatives or something else—on June 12.

I hope these alternative frameworks engender a lively discussion on June 12 as we seek to arrive at a tentative policy agreement.

Differences between the April/May framework and the June alternative framework

The June alternative framework uses the April/May framework as its starting point: the use of a firearm to commit a designated crime causes a five-year increase in the designated crime's statutory maximum penalty, which is doubled if the defendant's firearm use was prohibited due to a prior crime of violence. There are, however, several differences:

1. Leaving nothing to chance, this version gives the Sentencing Guidelines Commission a new mandate: it must increase the Sentencing Guidelines' recommended prison sentence at a rate at least as serious as **12 months of grid time for every five years of increased statutory maximum penalty** (like the gang modifier). To keep things simple, the rest of this memo will automatically convert the statutory maximum increases into Sentencing Guidelines' recommended sentence (or "grid time") increases, assuming the Commission adopts the minimum required 1:5 gang-modifier ratio.
2. Liability for an accomplice's use of a firearm is expanded. The requirement that the defendant aided the accomplice's firearm use is replaced with a more relaxed requirement that, before the designated crime, the defendant knew that the accomplice would likely possess the firearm or other dangerous weapon at the time of the crime. ("Likely" is a commonly used term in criminal law.)
3. In addition to the 12- or 24-month durational increase, there is a new mandatory minimum for using a firearm to commit a designated crime: Executed (even if the Guidelines recommend a stayed sentence), at the Guidelines' grid time (as extended by 12 or 24 months). For example, if someone with a criminal-history score at or below 2 commits second-degree assault by using (*e.g.*, brandishing) a firearm, or uses a firearm (*e.g.*, hunting) after a crime of violence, the Guidelines would presume a stayed sentence, but the mandatory-minimum would instead require an executed prison sentence at the Guidelines-recommended duration, which would be 12 months longer than stated on the grid.
4. In general, this mandatory minimum is waivable^e if the sentencing court can articulate substantial and compelling reasons for departure. Two exceptions follow.
5. The mandatory minimum is not waivable—prison is legally required—if the firearm was discharged. (This exception does not apply if the designated crime is possession of a firearm or ammunition after a crime of violence; the defendant may merely be hunting.)
6. The mandatory minimum is not waivable if the defendant had been previously eligible for a mandatory minimum sentence, either under the new law or under § 609.11, subd. 5, due to firearm use. (But the prior offense must count in the defendant's Sentencing Guidelines criminal history score; *i.e.*, decayed offenses do not count.)
7. There is a new six-month increase in grid time for use of a dangerous weapon other than a firearm, and a six- or twelve-month increase in grid time for firearm possession—depending on whether firearm possession was prohibited due to a prior crime of violence. This is a change to the Guidelines-recommended duration only; there is no mandatory minimum. The firearm possession must be on the defendant's person or within immediate reach.
8. Attempts and conspiracies get half the increase stated.

^e This version uses the customary waiver language, with one exception: For the sake of fairness and of fully informing the court, "either party," rather than "the prosecutor," may file a waiver motion. For the sake of consistency, I suggest recommending the same change in Minn. Stat. §§ 243.166 & 152.021.

9. Finally, this version includes a change to the designated crime list: instead of “a felony violation of chapter 152,” the list is limited to first-degree controlled substance crime; second-degree controlled substance crime; all chapter 152 drug sale crimes; importation; and possession of methamphetamine precursors with intent to manufacture.^f I discuss this change in more detail in a separate memo, “Drug Crimes on Two Crime Lists – §§ 609.11 and 624.712.”

How the June alternative framework grades penalty severity by weapons-involvement severity

Does the June alternative framework grade the severity of penalty by criminal history, crime severity, and the severity of weapons involvement? Yes, it grades penalty severity by criminal history and crime severity because it adds penalties to the Sentencing Guidelines’ recommended sentence, which incorporates criminal history and crime severity. And yes, it grades the severity of the additional penalty by the severity of weapons involvement. Here are six types of weapons involvement, from least to most severe (in my opinion), with an explanation of how the June alternative framework assigns more severe penalties as the severity of the weapons involvement increases:

- Committing a designated offense with **no firearm** or while **possessing a firearm off-site** results in **no additional penalty** applying to the Guidelines-recommended sentence (a change from § 609.11). Typical scenarios: possessing ammunition, or possessing a firearm in a weapons locker, after a crime of violence conviction or adjudication.
- **Using a dangerous weapon** (other than a firearm) to commit a designated crime results in **six months added** to the Guidelines-recommended duration (no change in the Guidelines-recommended disposition). Typical scenario: brandishing a knife in a threatening manner.
- **Possessing a firearm** on one’s person or in immediate reach while committing a designated crime results in **six months added** to the duration, or **twelve months added** if the possession was prohibited due to a prior crime of violence. (No change in the disposition.) Typical scenario: carrying a firearm after a crime of violence conviction or juvenile adjudication (this adds six months only).
- **Using a firearm** to commit, or flee from, a designated crime results in **twelve months added** to the Guidelines duration—or **twenty-four months added** if the use was prohibited due to a prior crime of violence—plus a **mandatory executed prison** sentence for the lengthened Guidelines duration (possibly waivable). Typical scenarios: brandishing a firearm in a threatening manner (as in second-degree assault or first-degree aggravated robbery/carjacking).

^f One non-drug sale—sale of a simulated controlled substance—is excepted. The designated crimes replacing any felony violation of chapter 152 are: Minn. Stat. §§ 152.021 (first-degree controlled substance crime), 152.022 (second-degree controlled substance crime), 152.023, subd. 1 (third-degree controlled substance sale), 152.024, subd. 1 (fourth-degree controlled substance sale), 152.025, subd. 1 (fifth-degree controlled substance sale), 152.0261 (importing a controlled substance), 152.0262 (possession of substances with intent to manufacture methamphetamine), 152.0264, subd. 1 (first-degree cannabis sale), and 152.027, subd. 6(c) (sale of synthetic cannabinoids). This list is loosely based on the list in § 152.18, subd. 1(a).

- **Using a firearm** to commit a designated crime a second time, before it has decayed from the criminal history score, results in the mandatory executed prison sentence for firearm use (above) being **nonwaivable**. Typical scenario: Second conviction for robbery or carjacking using a firearm.
- **Discharging** a firearm while committing, or fleeing from, a designated crime results in the mandatory minimum for firearm use (above) being **nonwaivable**. Typical scenarios: second- or first-degree assault, or attempted murder.

Because these additional penalties, being graded in severity by the severity of weapons involvement, are added to the Sentencing Guidelines sentence, and because the Guidelines sentence is already graded by offense severity and criminal history, it follows that the June alternative framework—unlike § 609.11—accomplishes the basic functions that a special weapons penalty scheme rationally ought to accomplish.

Detailed description of the June alternative framework

The description that follows contains three levels of detail, tailored to the reader's preference. A task force member who does not wish to go deeper may stop at any level and have an adequate grasp of the proposal. They are:

- Level 1: The nutshell summary table (p. 8)
- Level 2: The table's footnotes (p. 9)
- Level 3: The draft statutory language (p. 10)

Nutshell summary table

The following notes apply to Table 1:

- The area in **blue** represents policies found in both the April/May framework and the June alternative framework, although some of the footnotes do not apply to the April/May framework. The areas in white represent policies found only in the June alternative framework.
- A “designated crime” refers to any crime that is now listed in Minn. Stat. § 609.11, subd. 9, except as explained in footnote f (p. 6).

Table 1. Summary description of June alternative framework to replace § 609.11.

Situation		Increased Grid Time for Designated Crime	Mandatory Minimum?	Waivable?
FIREARM USE	Actor/accomplice ¹ uses a firearm to commit a designated crime ²	+12 months ³	Yes – grid time ⁴	• If firearm was discharged – no⁵ • If a mandatory minimum previously applied because a firearm was used to commit a designated crime – no⁶ • Otherwise – yes
	After a crime of violence, actor uses a firearm to commit a designated crime ⁷	+12 months ³		
	Maximum total increased prison for firearm use:	Up to +24 months ⁸		
A PENALTY INCREASE FOR FIREARM USE, ABOVE, PRECLUDES FURTHER PENALTY INCREASE, BELOW				
FIREARM POSSESSION OR OTHER DANGEROUS WEAPON USE	Actor/accomplice ¹ possesses ⁹ a firearm, or uses a dangerous weapon other than a firearm, while committing a designated crime ¹⁰	+6 months ¹¹	No	N/A
	After a crime of violence, actor possesses a firearm while committing a designated crime ⁷	+6 months ¹¹		
	Maximum total increased prison for firearm possession:	Up to +12 months ³		
FOR ALL INCREASES: IF THE DESIGNATED CRIME IS AN ATTEMPT, THE INCREASE IS HALVED				

Table 1 footnotes

¹ **Prerequisite** for a penalty increase to result from an accomplice's possession of a firearm, or use of a firearm or other dangerous weapon: Before committing the designated crime, the actor must have known that the accomplice would likely possess the firearm or other dangerous weapon at the time of the designated crime.

² **Excludes** drive-by shooting and second-degree murder by drive-by shooting; these already have firearm use as an element. (If the defendant was previously convicted of a crime of violence, however, these offenses are eligible for the twelve-month increase on the next line. Also, even without the penalty increase, the mandatory minimum applies to these crimes.) **Includes** all other designated crimes, including possessing a firearm or ammunition after a crime of violence. Thus, the use of a firearm (e.g., by brandishing, displaying, threatening with, or otherwise employing) by someone convicted of a crime of violence, accompanied by no other misconduct, would result in a 12-month durational increase in the grid time applicable to possessing a firearm or ammunition after a crime of violence, and a mandatory minimum prison commitment for that grid time.

³ Literally, this is a five-year increase in the designated crime's statutory maximum, which the Sentencing Guidelines must convert into a durational increase of at least 12 months.

⁴ **Includes** drive-by shooting offenses, even if they didn't get a durational increase per footnote 2.

⁵ **Excludes** a firearm discharge where the only designated crime is possessing a firearm after a crime of violence. This avoids a nonwaivable mandatory minimum for merely hunting or target shooting.

⁶ The prior mandatory minimum may have been under either Minn. Stat. § 609.11, subd. 5, or the new law (Minn. Stat. § 609.658)—but, if it was under § 609.11, the fact that the mandatory minimum resulted from firearm use, not merely possession, must be alleged and proven. A prior mandatory minimum for a sentence that has decayed for purposes of the Sentencing Guidelines does not count.

⁷ **Excludes** possessing a firearm or ammunition, after a crime of violence (to avoid double-counting). **Includes** all other designated crimes, including drive-by shooting, etc.

⁸ Literally, this is a ten-year increase in the designated crime's statutory maximum, which the Sentencing Guidelines must convert into a durational increase of at least 24 months.

⁹ **Limitation:** The firearm must be possessed "on their person or within immediate reach" (language copied from chapter 152). The intent of the limitation is to exclude firearm possession with no immediate risk.

¹⁰ **Excludes** second-degree assault, harassment with a dangerous weapon, drug crimes that have firearm possession as an element, and drive-by shooting offenses; these already have firearm possession, or use of another dangerous weapon, as an element. (If the defendant was previously convicted of a crime of violence, however, these offenses are eligible for the six-month increase on the next line. In practice, a second-degree assault involving a firearm would fall under the greater penalty increase for firearm use.) **Includes** all other designated crimes, including possessing a firearm or ammunition after a crime of violence (because it might involve possessing only ammunition, or possessing a firearm not "on their person or in immediate reach"; see footnote 9). Thus, carrying a firearm after a crime of violence, with no other misconduct, would result in a 6-month durational increase in the applicable grid time; no change to the Guidelines-recommended disposition.

¹¹ Literally, this is a 30-month increase in the designated crime's statutory maximum, which the Sentencing Guidelines must convert into a durational increase of at least 6 months.

Draft statutory language

Underlining has been removed for readability; please consider all the following bill text to be underlined.

Section 1. **[609.658] COMMITTING A DESIGNATED CRIME WITH A WEAPON; INCREASED PENALTY.**

Subdivision 1. **Designated crimes.** As used in this section, "designated crime" means:

(1) a violation of section 152.021 (first-degree controlled substance crime) not listed in clause (3); a violation of section 152.022 (second-degree controlled substance crime) not listed in clause (3); a violation of section 152.023, subdivision 1 (third-degree controlled substance sale); 152.024, subdivision 1 (fourth-degree controlled substance sale); 152.025, subdivision 1 (fifth-degree controlled substance sale); 152.0261 (importing a controlled substance); 152.0262 (possession of substances with intent to manufacture methamphetamine); 152.0264, subdivision 1 (first-degree cannabis sale); 152.027, subdivision 6, paragraph (c) (sale of synthetic cannabinoids); 609.185 (first-degree murder); 609.19, subdivision 1, clause (1), or subdivision 2 (second-degree murder); 609.195 (third-degree murder); 609.20 (first-degree manslaughter); 609.205 (second-degree manslaughter); 609.221 (first-degree assault); 609.223 (third-degree assault); 609.24 (simple robbery); 609.245 (aggravated robbery); 609.247 (carjacking); 609.25 (kidnapping); 609.255 (false imprisonment); 609.342, subdivision 1 (first-degree criminal sexual conduct; adult victim); 609.342, subdivision 1a, clause (a), (b), (c), (d), (e), (f), or (i) (first-degree criminal sexual conduct; victim under the age of 18); 609.343, subdivision 1 (second-degree criminal sexual conduct; adult victim); 609.343, subdivision 1a, clause (a), (b), (c), (d), (e), (f), or (i) (second-degree criminal sexual conduct; victim under the age of 18); 609.344, subdivision 1, clause (a), (b), or (c), or clause (d) under the conditions described in section 609.341, subdivision 24, clause (2)(i), (ii), or (iii) (third-degree criminal sexual conduct; adult victim); 609.344, subdivision 1a, clause (a), (b), (c), (d), (e), or (h), or clause (i) under the conditions described in section 609.341, subdivision 24, clause (2)(i), (ii), or (iii) (third-degree criminal sexual conduct; victim under the age of 18); 609.485 (escape from custody); 609.498, subdivision 1 or 1b (first-degree or aggravated first-degree witness tampering); 609.561 (first-degree arson); 609.562 (second-degree arson); 609.563 (third-degree arson); or 609.582 (burglary); or an attempt to commit any of these offenses;

(2) a violation of section 609.165, subdivision 1b, or 624.713, subdivision 1, clause (2) (possessing a firearm or ammunition after a crime of violence); or an attempt to commit either of these offenses;

(3) a violation of section 152.021, subdivision 1, clause (2)(i), subdivision 2, clause (2)(i), or subdivision 2b, clause (1) (first-degree or aggravated first-degree controlled substance crime with a firearm); 152.022, subdivision 1, clause (2)(i), or subdivision 2, clause (2)(i) (second-degree controlled substance crime with a firearm); 609.222 (second-degree assault); or 609.749, subdivision 3, paragraph (a), clause (3) (harassment with a dangerous weapon); or an attempt to commit any of these offenses; or

(4) a violation of section 609.19, subdivision 1, clause (2) (second-degree murder while committing drive-by shooting), or 609.66, subdivision 1e (drive-by shooting); or an attempt to commit either of these offenses.

Subd. 2. **Firearm use; increased maximum penalty.** (a) If the actor, either directly or as an accomplice, commits a designated crime, and, at the time of the crime or while immediately fleeing the scene of the crime, the actor or an accomplice uses, whether by brandishing, displaying, threatening with, or otherwise employing, a firearm, the statutory maximum penalty for the designated crime is increased by five years if either of the following is true, or by ten years if both of the following are true:

(1) The designated crime is listed in subdivision 1, clause (1), (2), or (3).

(2) The designated crime is listed in subdivision 1, clause (1), (3), or (4), the actor personally uses the firearm, and the actor's use of the firearm violates section 609.165, subdivision 1b, or 624.713, subdivision 1, clause (2).

(b) Notwithstanding paragraph (a), this subdivision does not apply to an accomplice's use of a firearm unless, before committing the designated crime, the actor knew the accomplice would likely possess the firearm at the time of the designated crime.

(c) Notwithstanding paragraph (a), if this subdivision applies to a designated crime that is an attempt under section 609.17, the statutory maximum penalty for the designated crime is increased by one-half the increase applicable under paragraph (a).

Subd. 3. **Firearm use; mandatory minimum sentence.** (a) A person convicted of a designated crime must be committed to the commissioner of corrections for a mandatory sentence of at least the length of the presumptive sentence under the Sentencing Guidelines if:

(1) the statutory maximum penalty for the designated crime is increased under subdivision 2; or

(2) the designated crime is listed in subdivision 1, clause (4).

(b) Except as provided in paragraphs (c) and (d), prior to the time of sentencing, either party may file a motion to have the person sentenced without regard to the mandatory minimum sentence established by this subdivision. The motion must be accompanied by a statement on the record of the reasons for it. When presented with the motion, or on its own motion, the court may sentence the person without regard to the mandatory minimum sentence if the court finds substantial and compelling reasons to do so; such a sentence is a departure from the Sentencing Guidelines.

(c) Paragraph (b) does not apply if the designated crime is listed in subdivision 1, clause (1), (3), or (4), and the person or an accomplice discharged the firearm at the time of the crime or while immediately fleeing the scene of the crime.

(d) Paragraph (b) does not apply if, before committing the designated crime, the person was convicted of a felony that qualifies for inclusion in the person's Sentencing Guidelines criminal history score for the designated crime and that was subject to a mandatory minimum sentence, regardless of whether the mandatory minimum sentence was imposed or executed, under either:

(1) this subdivision; or

(2) Minnesota Statutes 2026, section 609.11, subdivision 5, because of the use of a firearm.

Subd. 4. Firearm possession or other weapon use; increased maximum penalty. (a) A penalty increase under subdivision 2 precludes a penalty increase under this subdivision for the same designated crime.

(b) If the actor, either directly or as an accomplice, commits a designated crime, and, at the time of the crime, the actor or an accomplice possesses a firearm on their person or within immediate reach, or uses, whether by brandishing, displaying, threatening with, or otherwise employing, a dangerous weapon other than a firearm, the statutory maximum penalty for the designated crime is increased by 30 months if either of the following is true, or by five years if both of the following are true:

(1) The designated crime is listed in subdivision 1, clause (1) or (2).

(2) The designated crime is listed in subdivision 1, clause (1), (3), or (4), the actor personally possesses the firearm, and the actor's possession of the firearm violates section 609.165, subdivision 1b, or 624.713, subdivision 1, clause (2).

(c) Notwithstanding paragraph (b), this subdivision does not apply to an accomplice's possession of a firearm, or to an accomplice's use of a dangerous weapon other than a firearm,

unless, before committing the designated crime, the actor knew the accomplice would likely possess the firearm or other dangerous weapon at the time of the designated crime.

(d) Notwithstanding paragraph (b), if this subdivision applies to a designated crime that is an attempt under section 609.17, the statutory maximum penalty for the designated crime is increased by one-half the increase applicable under paragraph (b).

Subd. 5. **Exceptions.** (a) Subdivisions 2 to 4 do not apply to a designated crime with a statutory maximum penalty of less than one year.

(b) Subdivisions 2 to 4 do not apply to a sentence of life imprisonment.

EFFECTIVE DATE. This section is effective August 1, 2028, and applies to crimes committed on or after that date.

Sec. 2. SENTENCING GUIDELINES MODIFICATION.

The Sentencing Guidelines Commission must review this act and consider modifying how the Sentencing Guidelines address the use of a firearm or other dangerous weapon, or the possession of a firearm, in the commission of a designated crime. By January 15, 2028, the Commission must submit to the legislature proposed Sentencing Guidelines modifications related to this act and report the rationale for its proposal. The proposed modifications must include either an increase in the presumptive duration applicable to a designated crime at a rate of twelve months for every five years by which the statutory maximum is increased under section 1, or a presumptive-penalty increase of similar or greater severity. Proposed Sentencing Guidelines modifications related to this act and submitted to the legislature by January 15, 2028, shall take effect as provided in Minnesota Statutes, section 244.09, subdivision 11, except that such modifications shall apply to crimes committed on or after August 1, 2028, unless the legislature by law provides otherwise.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 3. REPEALER.

(a) Minnesota Statutes 2026, section 609.11, subdivisions 4, 5, 5a, 6, 7, 8, and 9, are repealed. * * *

EFFECTIVE DATE. Paragraph (a) is effective August 1, 2028, and applies to crimes committed on or after that date. * * *