

## MEMORANDUM

To: Task Force Members  
From: Nate Reitz, Task Force Chair  
Date: June 5, 2026  
Subject: **Drug Crimes on Two Crime Lists – §§ 609.11 and 624.712**

This task force has been discussing two crime lists, each an integral part of some of Minnesota’s most widely used mandatory minimum sentences:

- **The “crime of violence” list in Minn. Stat. § 624.712, subd. 5.** Being convicted or adjudicated delinquent for a “crime of violence” triggers a lifetime ban on possessing firearms or ammunition. Violating that ban is a felony listed in § 609.11, subd. 9. In addition, § 609.11 assigns this felony its own five-year mandatory minimum penalty. Our previous meetings have discussed the idea of changing the membership of this crime list, particularly with respect to drug crimes.
- **The unnamed crime list in Minn. Stat. § 609.11, subd. 9.** Committing a listed crime with a firearm or other dangerous weapon may result in a mandatory minimum sentence under § 609.11. In my proposal to replace § 609.11, I call this list the “designated crime” list. Our previous meetings have not focused on changing the membership of this crime list.

Controversially, both crime lists include all felony violations of chapter 152, Minnesota’s statutory drugs and controlled substances chapter. The Sentencing Guidelines list eighteen chapter 152 felonies, ranging in severity from sale of a simulated controlled substance to aggravated first-degree controlled substance crime. The most popular drug crime by far—indeed, the most commonly committed felony in Minnesota—is fifth-degree controlled substance crime (§ 152.025). In its most common form, this crime consists of unlawfully possessing any amount of a schedule I to IV controlled substance, with exceptions for possessing cannabis, possessing residue in drug paraphernalia, and first-time possession of very small amounts of the substance.

### What is the purpose of the § 624.712 “crime of violence” list?

Based on its name and function, the purpose of the § 624.712 list appears to be to identify crimes that are so violent that someone who is convicted of or adjudicated delinquent for committing such a crime is considered to dangerous to possess a firearm for life.

## What is the purpose of the unnamed crime list in § 609.11?

While § 609.11 does not name its crime list, the list is used in several other places: it is a felony to disobey a subpoena in relation to a listed crime (Minn. Stat. § 588.20); it is a felony to aid someone who has committed a listed crime (§ 609.495); and a listed crime is included in the definitions of “criminal gang” and “gang activity” (§§ 609.229 and 617.91). In two of those statutes—§§ 588.20 and 609.495—the crimes on the list are referred to as “crime[s] of violence.” Based on these names and the list’s function, the crimes on the § 609.11 list appear to be violent crimes for which the Legislature intends to particularly disincentivize the use or possession of firearms, or use of other dangerous weapons.

## Do drug crimes belong on these lists?

If these lists are for violent crimes with a special danger related to firearm use or possession, it seems odd to the lists include personal drug possession. Particularly with respect to the § 624.712 “crime of violence” list, it seems incongruous to label such personal possession as a “crime of violence,” to forever ban someone convicted of personal drug possession from the protections and pleasures of firearm and ammunition possession, and to require a five-year prison term for ever violating that ban.

## How can we distinguish between which drug crimes do and do not belong on these lists?

Here are five rational approaches for distinguishing between which drug crimes belong on these firearm-related “crime of violence” lists and which do not.

- 1. Look for violent or gun-related elements.** This is the approach I took in my [May proposal](#) to revise Minn. Stat. § 624.712’s “crime of violence” list. Arguing that only drug crimes that have, as an element, the personal possession of a firearm may fairly be described as “crimes of violence,” I recommended keeping only those crimes on the list.<sup>1</sup>
- 2. Look at the drug crimes classified as “violent crimes” for Minn. Stat. § 609.1095, subd. 2.** Minn. Stat. § [609.1095, subd. 1](#), also has a “violent crime” list, which applies to subdivision 2. Under subdivision 2, a person who commits a third sequential<sup>2</sup> violent crime and is found to be a danger to public safety may receive an aggravated durational departure from the Sentencing Guidelines. That “violent crime” list includes only the following chapter 152 offenses: exposing a child or vulnerable adult to methamphetamine or related chemicals, exposing a child to fentanyl, and all other chapter 152 offense with a statutory maximum penalty of 15 years or more.<sup>3</sup>

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<sup>1</sup> These crimes are Minn. Stat. §§ [152.021](#), subds. 1(2)(i), 2(a)(2)(i), & 2b(1) (controlled substance crime, or aggravated controlled substance crime, in the first degree (firearm-related offenses only)), & [152.022](#), subds. 1(2)(i) & 2(a)(2)(i) (controlled substance crime in the second degree (firearm-related offenses only)).

<sup>2</sup> *I.e.*, in the following sequence: Violent crime #1, conviction #1, violent crime #2, conviction #2, felony violent crime #3.

<sup>3</sup> The two exposure crimes are found in Minn. Stat. § [152.137](#). Chapter 152 offenses with a statutory maximum penalty of 15 years or more are Minn. Stat. §§ [152.021](#) (first-degree controlled substance crime), [152.022](#) (second-degree controlled

- 3. Look at the drug crimes classified as “violent crimes” for Minn. Stat. § 609.1095, subd. 3.** Minn. Stat. § [609.1095, subd. 3](#), requires a person who commits a third sequential<sup>4</sup> violent crime, to serve an executed prison sentence of at least the Guidelines-recommended duration—a non-waivable mandatory minimum. Unlike the “violent crime” list used in subdivision 2, subdivision 3 does not count controlled substance crimes in the third or fourth degrees among the “violent crimes.”<sup>5</sup>
- 4. Exclude drug crimes eligible for first-time deferred prosecution, and similar non-sale crimes.** Minn. Stat. § [152.18](#), subd. 1(a), lists several drug possession crimes that may be eligible for deferred prosecution and eventual dismissal without conviction, and might rationally be excluded from a “crime of violence” list. That list includes the following felonies: third-, fourth-, and fifth-degree controlled substance possession. In my June 5 memo entitled, “Replacing § 609.11 – Alternative Frameworks,” I presented a “June alternative framework” that modified the § 609.11 designated crime list to exclude not only these four possession crimes, but also several other felonies that did not involve drug sale and were ranked at or below severity level D3 in the Sentencing Guidelines, and which I therefore considered to be in the spirit of the list in § 152.18, subd. 1(a): Minn. Stat. §§ [152.097](#) (sale of a simulated controlled substance), [152.0263](#) (first-degree cannabis possession), [152.0265](#) (first-degree cannabis cultivation), [152.136](#) (tamper, steal, or transport anhydrous ammonia), & [152.137](#) (exposing a child or vulnerable adult to methamphetamine or related chemicals, or exposing a child to fentanyl).<sup>6</sup>

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substance crime), [152.023](#) (third-degree controlled substance crime), [152.024](#) (fourth-degree controlled substance crime), [152.0261](#) (importing controlled substance), & [152.0262](#), subd. 1(b) (possession of substances with intent to manufacture methamphetamine as a second or subsequent offense).

<sup>4</sup> See footnote 2.

<sup>5</sup> The complete list of chapter 152 “violent crimes,” for purposes of Minn. Stat. § 609.1095, subd. 3, then, is Minn. Stat. §§ [152.021](#) (first-degree controlled substance crime), [152.022](#) (second-degree controlled substance crime), [152.0261](#) (importing a controlled substance), [152.0262](#), subd. 1(b) (possession of substances with intent to manufacture methamphetamine as a second or subsequent offense), & [152.137](#) (exposing a child or vulnerable adult to methamphetamine or related chemicals, or exposing a child to fentanyl).

<sup>6</sup> The remaining felonies, which would replace “a felony violation of chapter 152” in the designated crimes list, would then be: 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), & [152.027](#), subd. 6(c) (sale of synthetic cannabinoids).

## Appendix – Comparing the §§ 609.11, 624.712, & 609.1095 crime lists

Minn. Stat. § 609.11, subd. 9 (includes attempts)	Minn. Stat. § 624.712 “Crime of violence” (must be a felony, includes attempts)	Minn. Stat. § 609.1095 (includes attempts, conspiracies, and out-of-state offenses)
Any felony violation of chapter 152	Any felony violation of chapter 152	<p><b>For subd. 3:</b> 1st- or 2nd-degree controlled substance crime, importing a controlled substance, possession of substances with intent to manufacture methamphetamine as a second or subsequent offense, exposing a child or vulnerable adult to methamphetamine or related chemicals, or exposing a child to fentanyl</p> <p><b>For subd. 2:</b> Same as for subd. 3, plus 3rd- or 4th-degree controlled substance crime</p>
Murder (all degrees)	Murder (all degrees)	Murder (all degrees, including of unborn child)
Manslaughter (both degrees)	Manslaughter (both degrees)	Manslaughter (both degrees, including of unborn child)
		Criminal vehicular homicide
		Criminal vehicular operation (all offenses, including against unborn child)
	Aiding suicide or aiding attempted suicide	
1st-, 2nd, or 3rd-degree assault	1st-, 2nd, or 3rd-degree assault	1st-, 2nd, or 3rd-degree assault (including against unborn child)

Minn. Stat. § 609.11, subd. 9 (includes attempts)	Minn. Stat. § 624.712 “Crime of violence” (must be a felony, includes attempts)	Minn. Stat. § 609.1095 (includes attempts, conspiracies, and out-of-state offenses)
	4th-degree, 5th-degree, or domestic assault	
	Domestic assault by strangulation	
		Great bodily harm caused by distribution of drugs
	Crimes committed for the benefit of a gang	Crimes committed for the benefit of a gang (felony only)
	Use of drugs to injure or facilitate crime	Use of drugs to injure or facilitate crime
Robbery (all degrees)	Robbery (all degrees)	Robbery (all degrees)
Carjacking (all degrees)	Carjacking (all degrees)	Carjacking (all degrees)
Kidnapping	Kidnapping	Kidnapping
False imprisonment	False imprisonment	False imprisonment
		Injury or death of unborn child in commission of crime
	Sex trafficking	Sex trafficking
1st- or 2nd-degree criminal sexual conduct <b>not</b> involving a significant relationship	1st- or 2nd-degree criminal sexual conduct	1st- or 2nd-degree criminal sexual conduct

Minn. Stat. § 609.11, subd. 9 (includes attempts)	Minn. Stat. § 624.712 “Crime of violence” (must be a felony, includes attempts)	Minn. Stat. § 609.1095 (includes attempts, conspiracies, and out-of-state offenses)
3rd-degree criminal sexual conduct <b>not</b> involving a significant relationship and not involving a prohibited occupational relationship other than psychotherapist-patient	3rd-degree criminal sexual conduct	3rd-degree criminal sexual conduct
	4th-degree criminal sexual conduct	4th-degree criminal sexual conduct
	Malicious punishment of a child	Malicious punishment of a child (felony only)
	Child neglect or endangerment	Child neglect or endangerment (felony only)
Escape from custody		
	Commission of crime while wearing or possessing a bullet-resistant vest	
1st-degree or aggravated 1st-degree witness tampering		1st-degree or aggravated 1st-degree witness tampering
	Theft of gun, drug, explosive, or bomb	
Arson (all degrees)	1st- or 2nd-degree arson	1st- or 2nd-degree arson
Burglary (all degrees)	1st- or 2nd-degree burglary	1st-degree burglary
Drive-by shooting	Drive-by shooting	Drive-by shooting

Minn. Stat. § 609.11, subd. 9 (includes attempts)	Minn. Stat. § 624.712 “Crime of violence” (must be a felony, includes attempts)	Minn. Stat. § 609.1095 (includes attempts, conspiracies, and out-of-state offenses)
	Unlawfully owning, possessing, operating a machine gun, conversion kit, trigger activator, or short-barreled shotgun	
		Adulteration
	Riot	
	Threats of violence	
Harassment with a dangerous weapon	Harassment; stalking	Harassment; stalking (felony only)
	Shooting at or in a public transit vehicle or facility	Shooting at or in a public transit vehicle or facility
		Possession of a pistol or semiautomatic military-style assault weapon by a minor
Possessing a firearm or ammunition after a crime of violence		Possessing a firearm or ammunition after a crime of violence