

# Chair's Proposed Legislative Recommendations (version 1)

Task Force on Mandatory Minimum Sentences  
April 6, 2026

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The cake has not been baked!

**This ...**



**Not that ...**



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# Intro to Minnesota's Sentencing Guidelines

- Early 1970s – Proposals emerge for structured, determinate sentencing, with a sentencing commission establishing guidelines for the sentencing court
- 1978 – Minnesota creates a Sentencing Guidelines Commission (MSGC) to “promulgate Sentencing Guidelines ... **based on reasonable offense and offender characteristics** ... [to] be advisory to the district court ... .”
- 1980 – Those “reasonable offense and offender characteristics” took the form of a two-axis grid: **offense** severity (vertical) and **offender's** criminal-history score (horizontal)

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SEVERITY LEVEL OF CONVICTION OFFENSE (Example offenses listed in italics)	CRIMINAL HISTORY SCORE							
	0	1	2	3	4	5	6 or more	
<i>Murder, 2nd Degree (Intentional; Drive-By-Shootings)</i>	11	306 261-367	326 278-391	346 295-401	366 312-439	386 329-463	406 346-480 <sup>1</sup>	426 363-480 <sup>1</sup>
<i>Murder, 2nd Degree (Unintentional)</i>	10	150 102-198	160 114-206	180 132-228	200 146-254	210 179-252	225 192-270	240 204-288
<i>Murder, 3rd Degree (Depraved Mind)</i>		80 54-126	90 63-117	110 81-139	130 104-146	140 114-160	146 116-175	158 135-189
<i>Murder, 3rd Degree (Drugs)</i>	9	80 54-126	90 63-117	110 81-139	130 104-146	140 114-160	146 116-175	158 135-189
<i>Assault, 1st Degree (Great Bodily Harm)</i>	8	48 41-57	58 50-69	68 58-81	78 67-92	88 75-103	95 84-117	108 92-129
<i>Agg. Robbery, 1st Degree</i>	8	48 41-57	58 50-69	68 58-81	78 67-92	88 75-103	95 84-117	108 92-129
<i>Burglary, 1st Degree (w/ Weapon or Assault)</i>	8	48 41-57	58 50-69	68 58-81	78 67-92	88 75-103	95 84-117	108 92-129
<i>Felony DWI</i>	7	36 31-41	42 36-48	48 41-57	54 46-64	60 51-72	66 57-79	72 62-84 <sup>1,2</sup>
<i>Financial Exploitation of a Vulnerable Adult</i>	7	36 31-41	42 36-48	48 41-57	54 46-64	60 51-72	66 57-79	72 62-84 <sup>1,2</sup>
<i>Assault, 2nd Degree</i>	6	21 18-24	27 23-31	33 28-37	40 33-45	45 39-54	51 44-61	57 49-68
<i>Burglary, 1st Degree (Occupied Dwelling)</i>	6	21 18-24	27 23-31	33 28-37	40 33-45	45 39-54	51 44-61	57 49-68
<i>Residential Burglary</i>	5	18 15-21	23 19-27	28 23-33	33 29-39	38 33-45	43 37-51	48 41-57
<i>Simple Robbery</i>	5	18 15-21	23 19-27	28 23-33	33 29-39	38 33-45	43 37-51	48 41-57
<i>Nonresidential Burglary</i>	4	12 10-14	15 12-18	18 15-21	21 17-25	24 21-28	27 23-32	30 26-36
<i>Theft Crimes (Over \$5,000)</i>	3	12 10-14	15 12-18	18 15-21	21 17-25	24 21-28	27 23-32	30 26-36
<i>Theft Crimes (\$5,000 or less)</i>	2	12 10-14	12 10-14	13 11-15	17 14-20	19 17-22	21 18-25	23 20-27
<i>Check Forgery (\$251-\$2,500)</i>	2	12 10-14	12 10-14	13 11-15	17 14-20	19 17-22	21 18-25	23 20-27
<i>Assault, 4th Degree</i>	1	12 10-14	12 10-14	13 11-15	17 14-20	19 17-22	21 18-25	23 20-27
<i>Fleeing a Peace Officer</i>	1	12 10-14	12 10-14	13 11-15	17 14-20	19 17-22	21 18-25	23 20-27

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## One huge problem with mandatory minimums in Minn. Stat. § 609.11

- They're chunky blocks of time: 1, 3, or 5 years
- One size fits all
- No consideration of current misconduct, prior record
- Why is this a problem?
- **Because the punishment falls the hardest on the people committing the least serious crimes with the least criminal history!**

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## Hypothetical: Three defendants

- **Able, Baker, and Charlie**
- Each has a prior conviction for second-degree assault (threatening someone with a firearm) – so 1½ criminal history points – rounds down to 1 point
- All sentences have been served – so no custody-status points
- **Baker** also has several other felonies – for a total of 6 criminal history points
- No other differences in background

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<i>Financial Exploitation of a Vulnerable Adult</i>	7	36	42	48	46-64	51-72	57-79	62-84 <sup>1,2</sup>
<b>Assault, 2nd Degree</b>	6	21	27	33	39	45	51	57
<i>Burglary, 1st Degree (Occupied Dwelling)</i>					34-46	39-54	44-61	49-68
<i>Residential Burglary</i>					33	38	43	48

- **Able** commits another second-degree assault (threatening someone with a firearm) – a severity-level 6 offense
- Sentencing Guidelines: 27 months, stayed sentence (up to 1 year in jail as an intermediate sanction & up to 5 years’ probation)
- 609.11: Mandatory-minimum of five years (60 months) for using a firearm while committing a listed offense (or for possession of a firearm by someone with a prior crime of violence conviction)
- Mandatory minimum’s impact on Able: **+48 to +60 months** (depending on how much local jail he would have gotten)

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<i>Financial Exploitation of a Vulnerable Adult</i>	7	36	42	48	46-64	51-72	57-79	62-84 <sup>1,2</sup>
<b>Assault, 2nd Degree</b>	6	21	27	33	39	45	51	57
<i>Burglary, 1st Degree (Occupied Dwelling)</i>					34-46	39-54	44-61	49-68
<i>Residential Burglary</i>					33	38	43	48

- Like Able, **Baker** commits another second-degree assault (threat with a firearm) – a severity-level 6 offense – but with much higher criminal-history score
- Sentencing Guidelines: 57 months, executed prison (because of Baker’s extensive criminal history)
- 609.11: Mandatory-minimum of five years (60 months) for using a firearm while committing a listed offense (or for possession of a firearm by someone with a prior crime of violence conviction)
- Mandatory minimum’s impact on Baker: **+3 months**

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Assault, 1st Degree (Great Bodily Harm)	✓	74-103	84-117	94-132	104-146	114-160	125-175	135-189
Agg. Robbery, 1st Degree	8	48	58	68	78	88	98	108
Burglary, 1st Degree (w/ Weapon or Assault)		41-57	50-69	58-81	67-93	75-105	84-117	92-129
Felony DWI	7	36	42	48	54	60	66	72
Financial Exploitation of a								

- **Charlie** shares Able's low criminal-history score, but commits a more serious offense – first-degree aggravated robbery (stealing from someone by threatening to use a gun) – a severity-level 8 offense
- Sentencing Guidelines: 58 months, executed prison
- 609.11: Mandatory-minimum of five years (60 months) for using a firearm while committing a listed offense (or for possession of a firearm by someone with a prior crime of violence conviction)
- Mandatory minimum's impact on Charlie: **+2 months**

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## Moral of the story

Of these three defendants, the mandatory minimum hit—

- The defendant with the most serious offense (Charlie) the least,
- The defendant with the worst criminal history (Baker) the second-least, and
- The defendant with the lesser offense and the lesser criminal history (Able) the most—**by a factor of 16× to 30×** compared to Baker's and Charlie's hits

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## Our charge

45.12 Subd. 2. Establishment. The Task Force on Mandatory Minimum Sentences is  
 45.13 established to collect and analyze data on the charging, convicting, and sentencing of persons  
 45.14 to mandatory minimum sentences; assess whether current laws and practices promote public  
 45.15 safety and equity in sentencing; and make recommendations to the legislature.

Besides being irrational, a policy that punishes **most** seriously those with the **least** criminal history who commit the **least** serious crimes is—

- Inequitable, and
- Unsafe – redirecting limited correctional resources away from those who need it most

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## Ground truth: Judges & prosecutors value criminal history

*From Table 3 (sentencing practices for 609.11's Mandatory Minimum for listed offense + weapon, 2018–2024), "MSGC Departure Data Pertaining to Mandatory Minimums" (Jan. 7, 2026)*

Variable	Value	Mitigated Dispositional Departures	
		N	%
Criminal History	0	1054	62.4%
	1	250	46.0%
	2	124	33.6%
	3	74	24.3%
	4	55	20.3%
	5	27	14.4%
	6+	40	9.7%

- Sentencing data: Judges and prosecutors appear to be manually correcting this one-size-fits-all inequity
- When the 609.11 mandatory minimum for committing a listed offense with a weapon applies, the departure rates are obviously higher when the defendant's criminal history score is lower

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## The solution is before our eyes

- The **Sentencing Guidelines** already grade punishment by offense severity and criminal history
- If a particular circumstance makes a particular crime more serious (e.g., it's committed for the benefit of a gang), the Guidelines **modify** the sentence appropriately (+12 months, in the case of a crime committed for the benefit of a gang)
- Replacing the 609.11 mandatory minimums with sentence modifiers would replace the chunky, one-size-fits-all mandatory minimum with an additional penalty on top of a base penalty graded to the offense severity and criminal history

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## Specific recommendations for 609.11

*Effective for crimes committed on or after August 1, 2028:*

- Repeal 609.11 mandatory minimums but keep the subd. 9 offense list\*
  - \* But move drive-by shooting to subd. 9(c) because it necessarily involves using a firearm. Move possessing firearm/ammo after "crime of violence" conviction to subd. 9(b) to avoid double-dipping (see below). All other offenses: subd. 9(a).
- If a defendant is found to have used a firearm in committing a felony listed in subd. 9(a) or 9(b), the **maximum** penalty increases:
  - By **five years**, and
  - By an **additional five years** if banned from firearms use due to a previous "crime of violence" conviction (subd. 9(a) offenses only)
- A five-year increase applies to the firearm-user's **accomplice** if the accomplice is found to have aided or abetted the firearm use

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## What would this do?

- Be a clear signal for the MSGC to create a modifier (like the gang modifier) that will increase the presumptive sentence – **graded by severity and criminal history** – by August 1, 2028
- Eliminate use of a *knife* from the penalty enhancement; not as dangerous, and often implied by the elements of the crime (and Guidelines-ranked accordingly)
- For accomplices, tie *punishment* for firearm use to *culpability* for firearm use
- Eliminate mere *possession* of a firearm from the penalty enhancement; far less dangerous than firearms *use*
  - “Using” includes brandishing, displaying, threatening with, or otherwise employing
- Put a rational penalty gap between crimes that *might* involve firearm use (like second-degree assault and first-degree aggravated robbery) and those that *do* involve firearm use

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## What about those convicted of a “crime a violence” who possess a firearm but don’t commit a listed crime?

- Possession of a firearm or ammunition by someone previously convicted of a “crime of violence” *is* a listed crime
- But—under this proposed recommendation, the State would have to prove that the defendant **used a firearm** (as opposed to merely possessing a firearm or ammunition) for the increased penalty to apply
- The **additional** five years for using the firearm to commit a listed offense after a conviction for a “crime of violence” wouldn’t apply (no double-dipping)

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# What about the nonwaivable mandatory minimums?

- This proposal would eliminate these ... but, compared with the existing mandatory minimums, presumptive sentences for the worst cases would increase (via expected MSGC sentence modifier)
- Departure rates may actually fall if penalties become more proportionate
- Given the complexity of 609.11’s rules for non-waivability, is it likely that defendants (or practitioners, for that matter) actually understand them?

Table 2 (Mandatory-minimum penalties, Minn. Stat. § 609.11), “Mandatory-Minimum Prison Sentences in Minnesota” (Sept. 10, 2025)

Current Offense →	① Possessing a firearm or ammunition after a crime of violence conviction or delinquency adjudication	② 1st- or 2nd-degree controlled substance sale* where the defendant or an accomplice used or possessed a firearm	③ A listed offense not described in column ① or ② where the defendant or an accomplice used or possessed a firearm	④ A listed offense not described in column ① where the defendant or an accomplice used a dangerous weapon other than a firearm
A listed offense in which the defendant used or possessed a firearm	5 years, no waiver provided	5 years, no waiver provided	5 years, no waiver provided	1 year & 1 day, no waiver provided
A listed offense in which an accomplice used or possessed a firearm	5 years, statutory waiver process	5 years, no waiver provided	5 years, statutory waiver process	1 year & 1 day, statutory waiver process
A listed offense in which the defendant used a dangerous weapon other than a firearm	5 years, no waiver provided	3 years, no waiver provided	3 years, no waiver provided	3 years, no waiver provided
A listed offense in which an accomplice used a dangerous weapon other than a firearm	5 years, statutory waiver process	3 years, no waiver provided	3 years, statutory waiver process	3 years, statutory waiver process
A listed offense in which the defendant possessed, but did not use, a dangerous weapon other than a firearm	5 years, no waiver provided	3 years, no waiver provided	3 years, no waiver provided	1 year & 1 day, no waiver provided
No prior conviction described above	5 years, statutory waiver process	3 years, no waiver provided	3 years, statutory waiver process	1 year & 1 day, statutory waiver process

\* Does not include aggravated first-degree controlled substance crime (see Table 1, p. 3).

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# Additional recommendations regarding ineligible firearms possession

## What

- In 624.712’s “crime of violence” definition, replace “chapter 152” with “aggravated first-degree controlled substance crime”
- Restore firearm and ammunition rights of a felon when—
  - Ten years pass after the most recent date of conviction or release from a sentence of confinement (EJ or adult-court conviction only), or
  - Ten years pass after the “crime of violence” adjudication (juvenile adjudications without EJ only)

## Why

- While drug crimes generally depress a community’s quality of life, most are not inherently violent and do not inherently create a specific risk of violence
- Research shows that a defendant who remains crime-free for seven years is no more likely to commit a new crime than a member of the general population; a lifetime ban wastes public-safety resources
- Juvenile adjudications are not convictions; in fairness, the ban period should be more limited

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## Recommendation regarding 243.166

### What

- Accept the 2022 recommendation of the Predatory Offender Statutory Framework Working Group: To eliminate the mandatory minimum for first failure to register convictions (but maintain it for subsequent offenses)

### Why

- The departure rates from this mandatory minimum are so high that a reasonable registrant is likely not deterred by it
- On the other hand, a registrant convicted under 243.166 gets an **automatic** five-year extension of the POR requirement; this is likely the reason for high POR compliance rates

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## Chapter 152 mandatory minimums

- No recommendations
- Most are tied to the Sentencing Guidelines, thus avoiding the one-size-fits-all problem
- Exception: The “subsequent controlled substance conviction” mandatory minimum—but the Legislature did narrow that significantly in 2016

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**609.11 MINIMUM SENTENCES OF IMPRISONMENT.**

Subdivision 1. **Commitments without minimums.** All commitments to the commissioner of corrections for imprisonment of the defendant are without minimum terms except when the sentence is to life imprisonment as required by law and except as otherwise provided in this chapter.

Subd. 2. [Repealed, 1978 c 723 art 2 s 5]

Subd. 3. [Repealed, 1981 c 227 s 13]

Subd. 4. **Dangerous weapon.** Any defendant convicted of an offense listed in subdivision 9 in which the defendant or an accomplice, at the time of the offense, used, whether by brandishing, displaying, threatening with, or otherwise employing, a dangerous weapon other than a firearm, shall be committed to the commissioner of corrections for not less than one year plus one day, nor more than the maximum sentence provided by law. Any defendant convicted of a second or subsequent offense in which the defendant or an accomplice, at the time of the offense, used a dangerous weapon other than a firearm, shall be committed to the commissioner of corrections for not less than three years nor more than the maximum sentence provided by law.

Subd. 5. **Firearm.** (a) Except as otherwise provided in paragraph (b), any defendant convicted of an offense listed in subdivision 9 in which the defendant or an accomplice, at the time of the offense, had in possession or used, whether by brandishing, displaying, threatening with, or otherwise employing, a firearm, shall be committed to the commissioner of corrections for not less than three years, nor more than the maximum sentence provided by law. Any defendant convicted of a second or subsequent offense in which the defendant or an accomplice, at the time of the offense, had in possession or used a firearm shall be committed to the commissioner of corrections for not less than five years, nor more than the maximum sentence provided by law.

(b) Any defendant convicted of violating section 609.165 or 624.713, subdivision 1, clause (2), shall be committed to the commissioner of corrections for not less than five years, nor more than the maximum sentence provided by law.

Subd. 5a. **Drug offenses.** Notwithstanding section 609.035, whenever a defendant is subject to a mandatory minimum sentence for a felony violation of chapter 152, other than a violation of section 152.021, subdivision 2b, clause (1), or a violation of chapter 152 sentenced under section 152.021, subdivision 3, paragraph (c), and is also subject to this section, the minimum sentence imposed under this section shall be consecutive to that imposed under chapter 152.

Subd. 6. **No early release.** Any defendant convicted and sentenced as required by this section is not eligible for probation, parole, discharge, or supervised release until that person has served the full term of imprisonment as provided by law, notwithstanding the provisions of sections 242.19, 243.05, 244.04, 609.12 and 609.135.

Subd. 7. **Fact finder shall establish.** The question of whether the defendant or an accomplice, at the time of commission of an offense listed in subdivision 9, used a firearm or other dangerous weapon or had in possession a firearm shall be determined by the fact finder at the time of a verdict or finding of guilt at trial or the entry of a plea of guilty based upon the record of the trial or the plea of guilty. The fact finder shall also determine whether the defendant has been convicted of a second or subsequent offense in which the defendant or an accomplice, at the time of commission of an offense listed in subdivision 9, used a firearm or other dangerous weapon or had in possession a firearm.

Subd. 8. **Motion by prosecutor.** (a) Except as otherwise provided in paragraphs (b) and (c), prior to the time of sentencing, the prosecutor may file a motion to have the defendant sentenced without regard to the mandatory minimum sentences established by this section. The motion shall 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 defendant without regard to the mandatory minimum sentences established by this section if the court finds substantial and compelling reasons to do so. A sentence imposed under this subdivision is a departure from the Sentencing Guidelines.

(b) The court may not, on its own motion or the prosecutor's motion, sentence a defendant without regard to the mandatory minimum sentences established by this section if the defendant previously has been convicted of an offense listed in subdivision 9 in which the defendant used or possessed a firearm or other dangerous weapon.

(c) The court may not, on its own motion or the prosecutor's motion, sentence a defendant without regard to the mandatory minimum sentences established by subdivision 5, if the defendant was convicted of a crime under section 152.021, subdivision 1, or 152.022, subdivision 1, and the person or an accomplice possessed on their person or within immediate reach, or used, whether by brandishing, displaying, threatening with, or otherwise employing, a firearm.

Subd. 9. **Applicable offenses.** The crimes for which mandatory minimum sentences shall be served as provided in this section are: murder in the first, second, or third degree; assault in the first, second, or third degree; burglary; kidnapping; false imprisonment; manslaughter in the first or second degree; aggravated robbery; simple robbery; carjacking in the first, second, or third degree; first-degree or aggravated first-degree witness tampering; criminal sexual conduct under the circumstances described in sections 609.342, subdivision 1, and subdivision 1a, clauses (a) to (f) and (i); 609.343, subdivision 1, and subdivision 1a, clauses (a) to (f) and (i); and 609.344, subdivision 1, clauses (a) to (c) and (d), under the conditions described in section 609.341, subdivision 24, clause (2), item (i), (ii), or (iii), and subdivision 1a, clauses (a) to (e), (h), and (i), under the conditions described in section 609.341, subdivision 24, clause (2), item (i), (ii), or (iii); escape from custody; arson in the first, second, or third degree; drive-by shooting under section 609.66, subdivision 1e; harassment under section 609.749, subdivision 3, paragraph (a), clause (3); possession or other unlawful use of a firearm or ammunition in violation of section 609.165, subdivision 1b, or 624.713, subdivision 1, clause (2), a felony violation of chapter 152; or any attempt to commit any of these offenses.

Subd. 10. **Report on criminal cases involving firearm.** Beginning on July 1, 1994, every county attorney shall collect and maintain the following information on criminal complaints and prosecutions within the county attorney's office in which the defendant is alleged to have committed an offense listed in subdivision 9 while possessing or using a firearm:

- (1) whether the case was charged or dismissed;
- (2) whether the defendant was convicted of the offense or a lesser offense; and
- (3) whether the mandatory minimum sentence required under this section was imposed and executed or was waived by the prosecutor or court.

No later than July 1 of each year, beginning on July 1, 1995, the county attorney shall forward this information to the Sentencing Guidelines commission upon forms prescribed by the commission.

**History:** 1963 c 753 art 1 s 609.11; 1969 c 743 s 1; 1971 c 845 s 15; 1974 c 32 s 1; 1975 c 378 s 8; 1977 c 130 s 2; 1978 c 723 art 2 s 2; 1979 c 258 s 1; 1981 c 227 s 1-7; 1983 c 274 s 15; 1986 c 351 s 5; 1989 c 290 art 3 s 27,28; 1991 c 279 s 25; 1993 c 326 art 13 s 23; 1994 c 576 s 46; 1994 c 636 art 3 s 5-8;

*1996 c 408 art 4 s 4,5; 1997 c 96 s 4; 1998 c 367 art 2 s 4,5; 2006 c 260 art 1 s 13; 2010 c 299 s 14; 2015 c 65 art 3 s 17; 2016 c 160 s 16,17; 2018 c 182 art 1 s 102; 1Sp2019 c 5 art 2 s 29; 1Sp2021 c 11 art 4 s 31; 2023 c 52 art 20 s 17*

**624.712 DEFINITIONS.**

Subdivision 1. **Scope.** As used in sections 624.711 to 624.717, the terms defined in this section shall have the meanings given them.

\* \* \*

Subd. 5. **Crime of violence.** "Crime of violence" means: felony convictions of the following offenses: sections 609.185 (murder in the first degree); 609.19 (murder in the second degree); 609.195 (murder in the third degree); 609.20 (manslaughter in the first degree); 609.205 (manslaughter in the second degree); 609.215 (aiding suicide and aiding attempted suicide); 609.221 (assault in the first degree); 609.222 (assault in the second degree); 609.223 (assault in the third degree); 609.2231 (assault in the fourth degree); 609.224 (assault in the fifth degree); 609.2242 (domestic assault); 609.2247 (domestic assault by strangulation); 609.229 (crimes committed for the benefit of a gang); 609.235 (use of drugs to injure or facilitate crime); 609.24 (simple robbery); 609.245 (aggravated robbery); 609.247 (carjacking); 609.25 (kidnapping); 609.255 (false imprisonment); 609.322 (solicitation, inducement, and promotion of prostitution; sex trafficking); 609.342 (criminal sexual conduct in the first degree); 609.343 (criminal sexual conduct in the second degree); 609.344 (criminal sexual conduct in the third degree); 609.345 (criminal sexual conduct in the fourth degree); 609.377 (malicious punishment of a child); 609.378 (neglect or endangerment of a child); 609.486 (commission of crime while wearing or possessing a bullet-resistant vest); 609.52 (involving theft of a firearm and theft involving the theft of a controlled substance, an explosive, or an incendiary device); 609.561 (arson in the first degree); 609.562 (arson in the second degree); 609.582, subdivision 1 or 2 (burglary in the first and second degrees); 609.66, subdivision 1e (drive-by shooting); 609.67 (unlawfully owning, possessing, operating a machine gun or short-barreled shotgun); 609.71 (riot); 609.713 (terroristic threats); 609.749 (harassment); 609.855, subdivision 5 (shooting at a public transit vehicle or facility); and chapter 152 (drugs, controlled substances); and an attempt to commit any of these offenses.

\* \* \*



# **PREDATORY OFFENDER STATUTORY FRAMEWORK WORKING GROUP**

**Report to the Minnesota Legislature  
February 1, 2022**

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**(Excerpt - Supplement 6 only)**

SUPPLEMENT 6  
PROPOSED STATUTORY LANGUAGE:  
ELIMINATE MANDATORY MINIMUM FOR FIRST-TIME CONVICTION

Minnesota Statutes 2021, section 243.166, subdivision 5, is amended to read:

Subd. 5. **Criminal penalty.** (a) A person required to register under this section who was given notice, knows, or reasonably should know of the duty to register and who:

(1) knowingly commits an act or fails to fulfill a requirement that violates any provision of this section; or

(2) intentionally provides false information to a corrections agent, law enforcement authority, or the bureau is guilty of a felony and may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than \$10,000, or both.

~~(b) Except as provided in paragraph (c), a person convicted of violating paragraph (a) shall be committed to the custody of the commissioner of corrections for not less than a year and a day, nor more than five years.~~

~~(c)~~ (b) A person convicted of violating paragraph (a), who has previously been convicted of or adjudicated delinquent for violating this section or a similar statute of another state or the United States, shall be committed to the custody of the commissioner of corrections for not less than ~~two years~~ a year and a day, nor more than five years.

~~(d)~~ (c) Prior to the time of sentencing, the prosecutor 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. Sentencing a person in the manner described in this paragraph is a departure from the Sentencing Guidelines.

~~(e)~~ (d) A person convicted and sentenced as required by this subdivision is not eligible for probation, parole, discharge, work release, conditional release, or supervised release, until that person has served the full term of imprisonment as provided by law, notwithstanding the provisions of sections 241.26, 242.19, 243.05, 244.04, 609.12, and 609.135.