

# Minnesota Sentencing Guidelines Commission

## Current Violent and Career Offender Sentencing Provisions

**Issue:** How often are the current violent and career offender sentencing provisions used?

The existing sentencing provisions for repeat violent offenders and career offenders are found in Minn. Stat. § 609.1095. Violent crimes are defined as convictions for any of the offenses listed in Table 1 including attempts.

**Table 1: 609.1095 subd. 1d : Violent Crime**

<b>Statute</b>	<b>Offense Description</b>
609.165 & 624.713	Persons with Prior Violent Crime not to Possess Firearms
609.185	Murder 1
609.19	Murder 2
609.195	Murder 3
609.2	Manslaughter 1
609.205	Manslaughter 2
609.21	Criminal Vehicular Homicide and Injury
609.221	Assault 1
609.222	Assault 2
609.223	Assault 3
609.228	Dist. Drugs – Great Bodily Harm
609.235	Use of Drugs to Injure or Facilitate
609.24	Simple Robbery
609.245	Aggravated Robbery
609.25	Kidnapping
609.255	False Imprisonment
609.2661-609.268	Crimes Against Unborn
609.342	Criminal Sexual Conduct 1
609.343	Criminal Sexual Conduct 2
609.344	Criminal Sexual Conduct 3
609.345	Criminal Sexual Conduct 4
609.498 subd. 1	Aggravated Witness Tampering
609.561	Arson 1
609.562	Arson 2
609.582 subd. 1	Burglary 1
609.66 subd. 1e	Drive-By Shooting
609.687	Adulteration
609.855 subd. 5	Shooting at Transit Vehicle
609.229	Crime Benefit Gang
609.377	Felony Provisions Malic. Punish. of Child
609.378	Felony Provisions Child Endangerment
609.749	Harassment Stalking
Chapter 152	Felony Drug Offenses with Stat Max of 15 years (1st-4th degree)
152.137	Meth Crimes Involving Children

**A. Repeat Violent Offender Sentencing Provision: 609.1095 subd. 2 – Aggravated Durational Departure Permitted**

1. An aggravated durational departure of up to the statutory maximum is authorized when:
  - Conviction for a violent crime
  - Presumptive Prison Sentence
  - Offender is 18 or Older
  - Offender has two or more prior convictions for violent crimes, and
  - Fact-finder determines that the offender is a danger to public safety

**B. Career Offender Sentencing Provision: 609.1095 subd. 4 – Aggravated Durational Departure Permitted**

2. An aggravated durational departure of up to the statutory maximum is authorized when:
  - Conviction for a felony
  - Presumptive Prison Sentence
  - Offender has five or more prior convictions for violent crimes, and
  - Fact-finder determines that the present offense was committed as part of a pattern of criminal conduct

**C. Frequency of Use**

These provisions authorizing aggravated durational departures were used for less than 1% of the cases receiving executed prison sentences from 2011-2015. Table 2 displays how often these sentencing provisions were cited as a reason for an aggravated durational departure in the last five years among offenders receiving executed prison sentences.

**Table 2: Frequency of Citation of Dangerous and Career Offender Provisions for Offenders Receiving an Executed Prison Sentence - Sentenced 2011-2015**

Year Sentenced	Total Sentenced	Received Executed Prison Sentence		Dangerous Offender Statute (prison only)		Career Offender Statute (prison only)	
		No	Yes	No	Yes	No	Yes
2011	14,571	10,918	3,653	3,647	6	3,634	19
		74.9%	25.1%	99.8%	0.2%	99.5%	0.5%
2012	15,207	11,203	4,004	3,996	8	3,986	18
		73.7%	26.3%	99.8%	0.2%	99.6%	0.4%
2013	15,318	11,125	4,193	4,190	3	4,167	26
		72.6%	27.4%	99.9%	0.1%	99.4%	0.6%
2014	16,145	11,927	4,218	4,214	4	4,201	17
		73.9%	26.1%	99.9%	0.1%	99.6%	0.4%
2015	16,763	12,371	4,392	4,387	5	4,377	15
		73.8%	26.2%	99.9%	0.1%	99.7%	0.3%
Total	78,004	57,544	20,460	20,434	26	20,365	95
		73.8%	26.2%	99.9%	0.1%	99.5%	0.5%

Table 3 displays how often these sentencing provisions were cited as a reason for an aggravated durational departure in the last five years as a percentage of the prison sentences with aggravated durational departures.

**Table 3: Frequency of Citation of Dangerous and Career Offender Provisions for Offenders Receiving Prison with an Aggravated Durational Departure - Sentenced 2011-2015**

Year Sentenced	Received Executed Prison Sentence	Received Aggravated Durational Departure		Dangerous Offender Statute (aggravated only)		Career Offender Statute (aggravated only)	
		No	Yes	No	Yes	No	Yes
2011	3,653	3,565	88	82	6	70	18
		97.6%	2.4%	93.2%	6.8%	79.5%	20.5%
2012	4,004	3,864	140	132	8	122	18
		96.5%	3.5%	94.3%	5.7%	87.1%	12.9%
2013	4,193	4,087	106	103	3	80	26
		97.5%	2.5%	97.2%	2.8%	75.5%	24.5%
2014	4,218	4,101	117	113	4	101	16
		97.2%	2.8%	96.6%	3.4%	86.3%	13.7%
2015	4,392	4,247	145	140	5	131	14
		96.7%	3.3%	96.6%	3.4%	90.3%	9.7%
Total	20,460	19,864	596	570	26	504	92
		97.1%	2.9%	95.6%	4.4%	84.6%	15.4%