

Minnesota Sentencing Guidelines Commission

Possession and Dissemination of Child Pornography (M.S. §617.247): 2000-2008

MSGC data are offender-based; cases generally represent offenders. An offender sentenced in the same county for more than one offense within a thirty-day period is counted as one case; information on the most serious offense is included in MSGC Monitoring Data. Reported below are cases in which dissemination or possession of child pornography was the most serious offense sentenced.

Possession and dissemination of pornographic works involving minors (M.S. §617.247) were unranked offenses through August 1, 2006. When an offense is unranked, the judge must assign the case to a severity level before pronouncing sentence. The tables below display severity level rankings assigned to cases sentenced from 2000 through 2008. For offenses committed on or after August 1, 2006, possession and dissemination offenses under M.S. §617.247 are ranked on the Sex Offender Grid. First-time possession offenses are now ranked at Severity Level G; subsequent offenses or offenses committed by a predatory offender are ranked at Severity Level F. First-time dissemination offenses are ranked at Severity Level E; subsequent offenses or offenses committed by a predatory offender are ranked at Severity Level D.

Of the 44 offenders sentenced for possession and dissemination of child pornography in 2008, 32 were sentenced according to the Sex Offender Grid. These offenders have offense dates on or after August 1, 2006 and are not included in the tables below. One offense was committed prior to August 1, 2006, but was assigned a severity level E on the Sex Offender Grid. That case is indicated on the table below.

	Dissemination of Pornographic Works Involving Minors (§617.247 subd. 3)									
Severity Level	Sentencing Year									
	2000	2001	2002	2003	2004	2005	2006	2007	2008	TOTAL
I	1	1	0	0	0	0	0	0	0	2
II	1	0	0	0	0	0	0	0	0	1
III	0	0	0	1	1	4	0	2	0	8
IV	0	0	0	3	0	0	3	0	0	6
V	1	2	0	1	0	0	1	0	1	6
VI	0	0	2	1	0	0	1	2	1	7
VII	0	0	0	0	0	0	0	1	1	2
E	0	0	0	0	0	0	0	0	1	1
Total	3	3	2	6	1	4	5	5	4	33

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Possession of Pornographic Works Involving Minors (§617.247 subd. 4)										
Severity Level	Sentencing Year									
	2000	2001	2002	2003	2004	2005	2006	2007	2008	TOTAL
I	0	1	0	1	0	1	0	0	1	4
II	0	1	5	4	2	0	0	0	0	12
III	4	11	17	21	16	10	17	11	3	110
IV	2	3	4	17	16	11	14	8	4	79
V	0	1	2	3	1	1	3	3	0	14
VI	0	0	0	3	0	0	1	2	0	6
VII	0	0	0	1	0	0	0	1	0	2
Total	6	17	28	50	35	23	35	25	8	227

IV. SENTENCING GUIDELINES GRID

Presumptive Sentence Lengths in Months

Italicized numbers within the grid denote the range within which a judge may sentence without the sentence being deemed a departure. Offenders with non-imprisonment felony sentences are subject to jail time according to law.

SEVERITY LEVEL OF CONVICTION OFFENSE (Common offenses listed in italics)		CRIMINAL HISTORY SCORE						
		0	1	2	3	4	5	6 or more
<i>Murder, 2nd Degree</i> (intentional murder; drive-by-shootings)	XI	306 261-367	326 278-391	346 295-415	366 312-439	386 329-463	406 346-480 ²	426 363-480 ²
<i>Murder, 3rd Degree</i> <i>Murder, 2nd Degree</i> (unintentional murder)	X	150 128-180	165 141-198	180 153-216	195 166-234	210 179-252	225 192-270	240 204-288
<i>Assault, 1st Degree</i> <i>Controlled Substance Crime,</i> <i>1st Degree</i>	IX	86 74-103	98 84-117	110 94-132	122 104-146	134 114-160	146 125-175	158 135-189
<i>Aggravated Robbery, 1st Degree</i> <i>Controlled Substance Crime,</i> <i>2nd Degree</i>	VIII	48 41-57	58 50-69	68 58-81	78 67-93	88 75-105	98 84-117	108 92-129
<i>Felony DWI</i>	VII	36	42	48	54 46-64	60 51-72	66 57-79	72 62-84 ²
<i>Controlled Substance Crime,</i> <i>3rd Degree</i>	VI	21	27	33	39 34-46	45 39-54	51 44-61	57 49-68
<i>Residential Burglary</i> <i>Simple Robbery</i>	V	18	23	28	33 29-39	38 33-45	43 37-51	48 41-57
<i>Nonresidential Burglary</i>	IV	12 ¹	15	18	21	24 21-28	27 23-32	30 26-36
<i>Theft Crimes (Over \$5,000)</i>	III	12 ¹	13	15	17	19 17-22	21 18-25	23 20-27
<i>Theft Crimes (\$5,000 or less)</i> <i>Check Forgery (\$251-\$2,500)</i>	II	12 ¹	12 ¹	13	15	17	19	21 18-25
<i>Sale of Simulated</i> <i>Controlled Substance</i>	I	12 ¹	12 ¹	12 ¹	13	15	17	19 17-22



Presumptive commitment to state imprisonment. First-degree murder has a mandatory life sentence and is excluded from the guidelines by law. See Guidelines Section [II.E., Mandatory Sentences](#), for policy regarding those sentences controlled by law.



Presumptive stayed sentence; at the discretion of the judge, up to a year in jail and/or other non-jail sanctions can be imposed as conditions of probation. However, certain offenses in this section of the grid always carry a presumptive commitment to state prison. See, Guidelines Sections [II.C. Presumptive Sentence](#) and [II.E. Mandatory Sentences](#).

¹ One year and one day

² M.S. § 244.09 requires the Sentencing Guidelines to provide a range for sentences which are presumptive commitment to state imprisonment of 15% lower and 20% higher than the fixed duration displayed, provided that the minimum sentence is not less than one year and one day and the maximum sentence is not more than the statutory maximum. See, Guidelines Sections II.H. Presumptive Sentence Durations that Exceed the Statutory Maximum Sentence and II.I. Sentence Ranges for Presumptive Commitment Offenses in Shaded Areas of Grids.

4.B. Sex Offender Grid

Presumptive sentence lengths are in months. Italicized numbers within the grid denote the discretionary range within which a court may sentence without the sentence being deemed a departure. Offenders with stayed felony sentences may be subject to local confinement.

SEVERITY LEVEL OF CONVICTION OFFENSE (Example offenses listed in italics)		CRIMINAL HISTORY SCORE						
		0	1	2	3	4	5	6 or more
<i>Criminal Sexual Conduct (CSC) 1st Degree</i>	A	144 <i>144-172</i>	156 <i>144-187</i>	168 <i>144-201</i>	180 <i>153-216</i>	234 <i>199-280</i>	306 <i>261-360</i>	360 <i>306-360</i> ²
<i>CSC 2nd Degree–1(c)(d)(e)(f)(h) (e.g., contact, force, & injury)</i>	B	90 <i>90</i> ³ -108	110 <i>94-132</i>	130 <i>111-156</i>	150 <i>128-180</i>	195 <i>166-234</i>	255 <i>217-300</i>	300 <i>255-300</i> ²
<i>CSC 3rd Degree–1(c)(d)(g)(h)(i)(j)(k)(l)(m)(n)(o)(p) (e.g., penetration & force/occupation)</i>	C	48 <i>41-57</i>	62 <i>53-74</i>	76 <i>65-91</i>	90 <i>77-108</i>	117 <i>100-140</i>	153 <i>131-180</i>	180 <i>153-180</i> ²
<i>CSC 2nd Degree–1(a)(b)(g) (e.g., contact & victim under 13)</i> <i>CSC 3rd Degree–1(a)(e)(f) or 1(b) with 2(1) (e.g., penetration & child victim)</i>	D	36	48	60 <i>51-72</i>	70 <i>60-84</i>	91 <i>78-109</i>	119 <i>102-142</i>	140 <i>119-168</i>
<i>CSC 4th Degree–1(c)(d)(g)(h)(i)(j)(k)(l)(m)(n)(o)(p) (e.g., contact & force/occupation)</i> <i>Dissemination of Child Pornography</i> ²	E	24	36	48	60 <i>51-72</i>	78 <i>67-93</i>	102 <i>87-120</i>	120 <i>102-120</i> ²
<i>CSC 4th Degree–1(a)(b)(e)(f) (e.g., contact & child victim)</i> <i>CSC 5th Degree</i> <i>Possession of Child Pornography (Subseq./Pred. Off./Under 13)</i>	F	18	27	36	45 <i>39-54</i>	59 <i>51-70</i>	77 <i>66-92</i>	84 <i>72-100</i>
<i>CSC 3rd Degree–1(b) with 2(2) (i.e., penetration & child victim 24–48 mo. younger)</i> <i>Possession of Child Pornography Solicit Child for Sexual Conduct</i> ²	G	15	20	25	30	39 <i>34-46</i>	51 <i>44-60</i>	60 <i>51-60</i> ²
<i>Failure to Register as a Predatory Offender</i>	H	12 ¹ <i>12¹-14</i>	14 <i>12¹-16</i>	16 <i>14-19</i>	18 <i>16-21</i>	24 <i>21-28</i>	30 <i>26-36</i>	36 <i>31-43</i>

¹ 12¹=One year and one day



Presumptive commitment to state imprisonment. Sex offenses under Minn. Stat. § 609.3455, subd. 2, have mandatory life sentences and are excluded from the Guidelines. See section 2.E, for policies regarding those sentences controlled by law, including conditional release terms for sex offenders.



Presumptive stayed sentence; at the discretion of the court, up to one year of confinement and other non-jail sanctions can be imposed as conditions of probation. However, certain offenders in the shaded area of the Grid may qualify for a mandatory life sentence under Minn. Stat. § 609.3455, subd. 4. See sections 2.C and 2.E.

² Minn. Stat. § 244.09 requires that the Guidelines provide a range for sentences that are presumptive commitment to state imprisonment of 15% lower and 20% higher than the fixed duration displayed, provided that the minimum sentence is not less than one year and one day and the maximum sentence is not more than the statutory maximum. See section 2.C.1–2.

³ Solicits, Promotes, or Receives Profit Derived from Prostitution; Sex Trafficking 1st Degree is not subject to a 90-month minimum statutory presumptive sentence so the standard range of 15% lower and 20% higher than the fixed duration applies. (The range is 77–108.)