

Errata Sheet 1
July 27, 2016

- **Errata to Proposed Modifications to the Sentencing Guidelines and Commentary, Section A, Number 4 (Page 5 & 6)**

4. Modifications to Guidelines § 2.E.

The Commission proposes to modify § 2.E, as a result of legislative amendments to controlled substance offenses, to take effect August 1, 2016, as follows.

Section 2.E. Mandatory Sentences

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2. Specific Statutory Provisions. * * *

c. Subsequent Drug Controlled Substance Offenses Involving a Dangerous Weapon. Pursuant to Minn. Stat. § 609.11, subd. 5a, some drug offenses committed with a dangerous weapon may be subject to one of the following two provisions.

(1) Certain Aggravated First-Degree Offenses. If an offender is sentenced for aggravated controlled substance crime in the first degree under Minn. Stat. § 152.021, subd. 2b(2), and is also subject to Minn. Stat. § 609.11, subd. 5a, the presumptive duration is the mandatory minimum sentence described in section 2.C.3.c(1) added to the mandatory minimum sentence for the dangerous weapon involvement found in Minn. Stat. § 609.11, subd. 4 or 5.

(2) Subsequent Controlled Substance Offenses. If an offender is sentenced for a second or subsequent drug controlled substance offense and is subject to Minn. Stat. § 609.11, subd. 5a, the presumptive duration is the longer of either:

(1) (i) the mandatory minimum sentence for the subsequent ~~drug~~ controlled substance offense added to the mandatory minimum sentence for the dangerous weapon involvement; or

(2) (ii) the presumptive duration for the subsequent ~~drug~~ controlled substance offense provided in the appropriate cell on the **Standard Drug Offender** Grid and limited, if applicable, by section 2.C.3.c(1).

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Errata Sheet 2
July 27, 2016

- **Errata to Proposed Modifications to the Sentencing Guidelines and Commentary, Section A, Number 5 (Page 8)**

Examples of Executed Sentences (Length in Months) Broken Down by:

Term of Imprisonment and Supervised Release Term

*Under Minn. Stat. § 244.101, offenders committed to the Commissioner of Corrections for crimes committed on or after August 1, 1993 will receive an executed sentence pronounced by the court consisting of two parts: *****

Executed Sentence	Term of Imprisonment	Supervised Release Term	Executed Sentence	Term of Imprisonment	Supervised Release Term
12 and 1 day	8 and 1 day	4	58	38 2/3	19 1/3
13	8 2/3	4 1/3	60	40	20
15	10	5	65	43 1/3	21 2/3
17	11 1/3	5 2/3	66	44	22
18	12	6	68	45 1/3	22 2/3
19	12 2/3	6 1/3	72	48	24
21	14	7	75	50	25
23	15 1/3	7 2/3	78	52	26
24	16	8	85	56 2/3	28 1/3
27	18	9	86	57 1/3	28 2/3
28	18 2/3	9 1/3	88	58 2/3	29 1/3
30	20	10	95	63 1/3	31 2/3
33	22	11	98	65 1/3	32 2/3
36	24	12	105	70	35
38	25 1/3	12 2/3	108	72	36
39	26	13	110	73 1/3	36 2/3
42	28	14	115	76 2/3	38 1/3
43	28 2/3	14 1/3	122	81 1/3	40 2/3
45	30	15	125	83 1/3	41 2/3
48	32	16	134	89 1/3	44 2/3
51	34	17	146	97 1/3	48 2/3
54	36	18	158	105 1/3	52 2/3
57	38	19			

Errata Sheet 3
July 27, 2016

- **Errata to Proposed Modifications to the Sentencing Guidelines and Commentary, Section A, Number 6 (Pages 11 & 12)**

6. Modifications to Guidelines §§ 5.A and 5.B.

The Commission proposes to modify §§ 5.A and 5.B, as a result of legislative amendments that would mandate modifications to the Guidelines, to take effect August 1, 2016, as follows.

Section 5.A. Offense Severity Reference Table

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<u>Severity Level</u>	<u>Offense Title</u>	<u>Statute Number</u>
<u>D2</u>	<u>Controlled Substance Crime 5th Degree</u>	152.025, subd. 3(b) <u>4(b)</u>

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5.B. Severity Level by Statutory Citation

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Statute Number	Offense Title	Severity Level
152.025, subd. 3(b) <u>4(b)</u>	Controlled Substance Crime 5th Degree	<u>D2</u>

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Errata Sheet 4
July 27, 2016

- **Errata to Proposed Modifications to the Sentencing Guidelines and Commentary, Section B, Number 1 (Pages 15 & 16)**

1. Modification to Guidelines § 2.B.

The Commission adopted a proposal that, for Criminal Vehicular Homicide (Death or Death to an Unborn Child, Qualified Prior Conviction), assign no misdemeanor units to the qualified prior driving offense that was used to increase the statutory maximum penalty, by modifying § 2.B.3, to take effect August 1, 2016, as follows.

Section 2.B. Criminal History

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3. Prior Gross Misdemeanors and Misdemeanors. * * *

- g. Assignment of Units for Criminal Vehicular Homicide or Operation or Felony Driving While Impaired (DWI). If the current conviction is for criminal vehicular homicide or operation or felony DWI, assign previous violations of Minn. Stat. §§ 169A.20, 169A.31, 169.121, 169.1211, 169.129, 360.0752, 609.2112, 609.2113, or 609.2114 two units each. There is no limit to the total number of misdemeanor points that can be included in the offender's criminal history score due to criminal vehicular homicide or operation or DWI offenses. For DWI offenses, see section 2.B.6 for exceptions to this policy relating to predicate offenses used for enhancement purposes. For Criminal Vehicular Homicide (Death or Death to an Unborn Child, and Qualified Prior Conviction), assign no misdemeanor units to the qualified prior driving offense that was used to increase the statutory maximum penalty. * * *

Comment

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2.B.304. *The Commission believes that* * * *

When the current offense is a conviction under Minn. Stat. § 609.2112, subd. 1(a) 1(b) (Death, and Qualified Prior Conviction), or § 609.2114, subd. 1(b) (Death to an Unborn Child, and Qualified Prior Conviction), the Commission excluded consideration of the qualified prior driving offense, if a misdemeanor or gross misdemeanor, from the criminal history score because, by virtue of the conviction offense, the qualified prior conviction has been accounted for in the enhanced penalty. * * *

Errata Sheet 5
July 27, 2016

- **Errata to Proposed Modifications to the Sentencing Guidelines and Commentary, Section B, Number 2 (Page 16)**

2. Modification to Guidelines § 2.D.

The Commission proposes to clarify that the use of the aggravating factor involving bias motivation under Guidelines § 2.D.3.b(11) is prohibited when the statutory maximum was increased under Minn. Stat. § 609.2233 by modifying Comment 2.D.307, to take effect August 1, 2016, as follows.

Section 2.D. Departures from the Guidelines

* * *

~~2.D.307~~ 2.D.308. *The aggravating factor involving bias motivation under section 2.D.3.b(11) cannot be used when ~~an offender has been convicted under a statute that sentencing an offender for a crime with an increased statutory maximum penalty under Minn. Stat. § 609.2233 (felony assault motivated by bias), or for a crime that was elevated~~ ~~the crime~~ to a felony offense because of bias motivation (e.g., Minn. Stat. §§ 609.2231, subd. 4 (fourth-degree assault); 609.595, subd. 1a(a) (criminal damage to property); 609.749, subd. 3(a)(1) (stalking)). The Commission intends that a penalty for a bias-motivated offense be subject to enhancement only once.* * * *

Errata Sheet 6
July 27, 2016

- **Errata to Proposed Modifications to the Sentencing Guidelines and Commentary, Section B, Number 4 (Pages 17-20)**

4. Modification to Guidelines §§ 5.A and 5.B.

Staff recommends that the Commission approve the severity-level rankings as a result of new laws and conforming modifications as a result of amended laws, by modifying §§ 5A & 5B, to take effect August 1, 2016, as proposed, except that the modifications on pp. 18 & 20 pertaining to “Use of Automated Sales Suppression Devices” and “Minn. Stat. § 609.858” be tabled pending possible future Commission action.

Errata Sheet 7
July 27, 2016

- **Errata to Proposed Modifications to the Sentencing Guidelines and Commentary, Section B, Number 5 (Page 21)**

5. Modification to Guidelines § 6.

STAFF ADDENDUM:

Due to a staff oversight, the Minnesota Sentencing Guidelines Commission has not yet considered whether or not the new felony established within Minn. Stat. § 609.502 should be added to the list of offenses eligible for permissive consecutive sentences. Staff proposes that the Commission decide whether or not to adopt the following addition to § 6, to take effect August 1, 2016, as follows.

* * *

Statute Number	Offense Title
<u>609.502 subd. 1(1)</u>	<u>Interference with a Dead Body or Scene of Death</u>

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