

Minnesota Sentencing Guidelines Commission

Selected Serious Crime Lists November 17, 2016

Issue: A Commission member has requested that a staff-compiled list of statutory crime lists be provided to the Commission as a whole.

Background: Table 1 displays the members of five statutory crime lists. Those lists are:

- “Crime[s] of violence,” as defined by Minn. Stat. § 624.712, subd. 5. Persons convicted of a crime on this list face a mandatory five-year executed prison term for subsequently possessing a firearm.¹
- “Violent crime[s],” as defined by Minn. Stat. § 609.1095, subd. 1(d). Persons who repeatedly commit crimes on this list face enhanced penalties.²
- Crimes listed in Minn. Stat. § 609.11, subd. 9. Persons who commit crimes on this list while possessing or using a firearm or other dangerous weapon face mandatory prison terms.³ Persons who aid those who have committed crimes on this list may be guilty of Accomplice After the Fact.⁴ A group is not a “criminal gang” unless it has, as one of its primary activities, the commission of a crime on this list.⁵
- “Predatory crime[s],” as defined by Minn. Stat. § 609.341, subd. 22. Persons who commit crimes on this list with sexual motivation may be guilty of Criminal Sexual Predatory Conduct and face enhanced penalties (hence, sex offenses are not included on the list).⁶ Engrained sex offenders may face enhanced penalties for sex offenses if previously convicted of a crime on this list.⁷
- “Heinous crime[s],” as defined by Minn. Stat. § 609.106, subd. 1(a). Persons convicted of a crime on this list must, if subsequently convicted of any degree of murder, be sentenced to the statutory maximum.⁸

These five crime lists are by no means exhaustive. Other crime lists—such as lists of prior offenses that disqualify someone from licensure or employment,⁹ the list of qualified domestic violence-related offenses¹⁰ (which contain several non-felony offenses), and the

¹ Minn. Stat. § 609.11, subd. 5(b).

² Minn. Stat. § 609.1095, subd. 2 & 3.

³ Minn. Stat. § 609.11, subd. 4 & 5(a).

⁴ Minn. Stat. § 609.495, subd. 3.

⁵ Minn. Stat. § 609.229, subd. 1(a).

⁶ Minn. Stat. § 609.3453.

⁷ Minn. Stat. § 609.3455, subd. 3a.

⁸ *I.e.*, life without the possibility of release, in the case of murder in the first degree. Minn. Stat. §§ 609.106, subd 2(3), & 609.107.

⁹ *See, e.g.*, Minn. Stat. §§ 122A.20, 122A.40, 145A.061, 146A.08, 245C.15, 299C.61, 299C.67 & 518.179.

¹⁰ Minn. Stat. § 609.02, subd. 16.

list of offenses that require an offender to register as a predatory offender¹¹—might have been included, but were not. Although these five lists generally share common attributes—for example, the name or membership of most of these lists connotes violence or seriousness; each list’s members are primarily or exclusively felonies; and each list was used to enhance or create criminal penalties—these attributes might also apply to other lists.

Table 1: Membership of Selected Serious Crime Lists

Statute	Crime	624.712 Crime of Violence	609.1095 Violent Crime	609.11, subd. 9	609.341 Predatory Crime	609.106 Heinous Crime
609.165	Crime-of-Violence Convict Possess Firearm/Ammo		x	x		
609.185	Murder 1	x	x	x	x	x
609.19	Murder 2	x	x	x	x	x
609.195	Murder 3	x	x	x	x	x
609.20	Manslaughter 1	x	x	x	x	
609.205	Manslaughter 2	x	x	x	x	
609.2112	Criminal Vehicular Homicide		x			
609.2113	Fel. Criminal Vehicular Operation ¹²		x			
609.2114	Criminal Vehicular Operation; Unborn Child		x			
609.215	Aiding Suicide	x				
609.215	Aiding Att. Suicide	x				
609.221	Assault 1	x	x	x	x	x
609.222	Assault 2	x	x	x	x	
609.223	Assault 3	x	x	x	x	
609.2231	Fel. Assault 4	x				
609.224	Fel. Assault 5	x				
609.2242	Fel. Domestic Assault	x				
609.2247	Domestic Assault by Strangulation	x				
609.228	Distribute Drugs Causing Great Bodily Harm		x			
609.229	Fel. Crime Committed for Benefit of Gang	x	x			
609.235	Use Drugs to Injure or Facilitate Crime	x	x			
609.24	Simple Robbery	x	x	x	x	
609.245	Aggravated Robbery	x	x	x	x	
609.25	Kidnapping	x	x	x	x	

¹¹ Minn. Stat. § 243.166, subd. 1b(a).

¹² Non-felonies, while not excluded from Minn. § 609.1095 list, are not used for § 609.1095 enhancements and are therefore excluded from this list.

Statute	Crime	624.712 Crime of Violence	609.1095 Violent Crime	609.11, subd. 9	609.341 Predatory Crime	609.106 Heinous Crime
609.255	Fel. False Imprisonment	x	x	x ¹³	x	
609.2661	Murder 1 of Unborn Child		x			
609.2662	Murder 2 of Unborn Child		x			
609.2663	Murder 2 of Unborn Child		x			
609.2664	Manslaughter 1 of Unborn Child		x			
609.2665	Manslaughter 2 of Unborn Child		x			
609.267	Assault 1 of Unborn Child		x			
609.2671	Assault 2 of Unborn Child		x			
609.268	Assault 3 of Unborn Child		x			
609.322	Solicit, etc., Prostitution; Sex Trafficking	x				
609.342	Criminal Sexual Conduct 1 (with force or violence)	x	x	x		x
609.342	Criminal Sexual Conduct 1 (except sig. relationship)	x	x	x		
609.342	Criminal Sexual Conduct 1 (significant relationship)	x	x			
609.343	Criminal Sexual Conduct 2 (with force or violence)	x	x	x		x
609.343	Criminal Sexual Conduct 2 (except sig. relationship)	x	x	x		
609.343	Criminal Sexual Conduct 2 (significant relationship)	x	x			
609.344	Criminal Sexual Conduct 3 (with force or violence)	x	x	x		x
609.344	Criminal Sexual Conduct 3 (except sig. relationship et al.)	x	x	x		
609.344	Criminal Sexual Conduct 3 (all other clauses)	x	x			
609.345	Criminal Sexual Conduct 4	x	x			
609.377	Fel. Malicious Punishment of Child	x	x			
609.378	Fel. Child Neglect/Endangerment	x	x			
609.485	Escape from Custody			x		
609.486	Commit Crime with Bulletproof Vest	x				
609.498	Witness Tampering 1		x	x	x	
609.498	Witness Tampering Agg 1			x	x	
609.52	Theft of Firearm	x				
609.52	Theft of Controlled Substance	x				

¹³ Gross misdemeanors are not excluded from Minn. Stat. § 609.11, subd. 9.

Statute	Crime	624.712 Crime of Violence	609.1095 Violent Crime	609.11, subd. 9	609.341 Predatory Crime	609.106 Heinous Crime
609.52	Theft of Explosive or Incendiary Device	x				
609.561	Arson 1	x	x	x	x	
609.562	Arson 2	x	x	x		
609.563	Arson 3			x		
609.582	Burglary 1	x	x	x	x	
609.582	Burglary 2	x		x		
609.582	Burglary 3			x		
609.66	Drive-By Shooting	x	x	x		
609.67	Machine Gun/Short-Barreled Shotgun	x				
609.687	Adulteration		x			
609.71	Riot 1	x				
609.71	Riot 2	x				
609.713	Fel. Threats of Violence	x				
609.749	Fel. Stalking	x	x			
609.749	Agg. Stalking With Weapon	x	x	x		
609.855	Shoot Public Transit Vehicle/Facility	x	x			
624.713	Child Possess Pistol/Semiauto Military Weapon		x			
624.713	Crime-of-Violence Convict Possess Firearm/Ammo		x	x		
152.021	Controlled Substance Crime 1	x	x	x		
152.022	Controlled Substance Crime 2	x	x	x		
152.023	Controlled Substance Crime 3	x	x ¹⁴	x		
152.024	Controlled Substance Crime 4	x	x ¹⁴	x		
152.025	Controlled Substance Crime 5	x		x		
152.0261	Importing Controlled Substance	x	x	x		
152.0262	Possess Meth Precursors With Intent	x		x		
152.0262	Possess Meth Precursors With Intent-Subsequent	x	x	x		
152.027	Sell Synthetic Cannabinoid	x		x		
152.097	Sell Simulated Controlled Substance	x		x		
152.136	Sell/Misuse Anhydrous Ammonia	x		x		
152.137	Meth Crime Involving Child/Vuln. Adult	x	x	x		
152.33	Medical Cannabis Diversion/False Records	x		x		

¹⁴ Not counted for mandatory execution on third violent felony per § 609.1095.