

## Staff Issue Paper

---

# Possible Sentencing Guidelines Technical Correction

April 28, 2022

As staff is made aware of technical issues in the Sentencing Guidelines, it brings them to the Commission's attention to consider possible corrective action. This staff paper highlights one such issue. If the Commission were to act on this issue June 9, 2022, it could be heard at the July 21, 2022, public hearing.

## Typo in the List of Aggravating Factors for Departure

---

The Guidelines contain a nonexclusive list of factors which may be used as reasons for departure. There is a typo in the section which references aggravating factors for departure (section 2.D.3.b(3)), where the word "is" serves no purpose. The error appears to have been introduced in 2012 during a Guidelines revision project.<sup>1</sup> This aggravating factor is restated in Minn. Stat. § [244.10, subd. 5a\(a\)\(3\)](#).

### Suggested Correction

Modify 2021 Minn. Sentencing Guidelines section 2.D.3, in order to correct the error as shown, below.

*Possible modifications to 2021 Minn. Sentencing Guidelines § 2.D.3:*

\* \* \*

3. Factors that may be used as Reasons for Departure. The following is a nonexclusive list of factors that may be used as reasons for departure: \* \* \*

- b. Aggravating Factors. \* \* \*

- (3) The current conviction is for a criminal sexual conduct offense, or an offense in which the victim was otherwise injured, and ~~is~~ the offender has a prior felony conviction for a criminal sexual conduct offense or an offense in which the victim was otherwise injured.

\* \* \*

---

<sup>1</sup> [Guidelines Revision Project, Adopted Modifications](#). Minn. Sentencing Guidelines Commission (April 2012).