

Possible Sentencing Guidelines Technical Correction

Listing Sexual Extortion as a Conditional-Release Offense

May 29, 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 suspend its [first reading rule](#) and act on this issue June 9, 2022, it could be heard at the scheduled July 21, 2022, public hearing.

Omission in the List of Applicable Conditional Release Offenses

Conditional release—applicable to offenses such as DWI, criminal sexual conduct, and child pornography—is a statutorily required term of extended supervision. This additional term of supervision begins when the term of imprisonment is completed. Conditional release must be pronounced at sentencing, but is only imposed on executed prison sentences. The Guidelines’ section on conditional release, 2.E.3, references the applicable offenses and their conditional-release statute numbers.

The Legislature established the crime of Sexual Extortion in the 2021 Special Session.¹ The Legislature applied conditional release to the new offense,² but the Guidelines’ section on conditional release was not updated.

Suggested Correction

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

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

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¹ [2021 Minn. Laws ch. 11, art. 4, § 22](#). Codified at Minn. Stat. § [609.3458](#), Sexual Extortion occurs when a person engages in sexual penetration or sexual contact with another person and compels the other person to submit by making direct or indirect threats to withhold or harm a job or business, cause criminal charges to be made, report immigration status, disseminate private sexual images, expose a secret, or change housing or rent. The Commission ranked the offense on the Sex Offender Grid at Severity Level C (penetration) and Severity Level E (contact) and placed it on the list of offenses eligible for permissive consecutive sentences (section 6) and on the list of exceptions to the 5-year probation cap (section 3.A.2.d).
² *I.e.*, the ten-year and lifetime conditional release terms mandated by Minn. Stat. § [609.3455, subds. 6–8](#). [2021 Minn. Laws ch. 11, art. 4, § 21](#).

3. Conditional Release. Several Minnesota statutes provide for mandatory conditional release terms that must be served by certain offenders once they are released from prison. The court must pronounce the conditional release term when sentencing for the following offenses:

- First-degree (felony) driving while impaired. Minn. Stat. § 169A.276, subd. 1(d).
- Predatory offense registration violation committed by certain offenders. Minn. Stat. § 243.166, subd. 5a.
- Assault in the fourth degree against secure treatment facility personnel. Minn. Stat. § 609.2231, subd. 3a(e).
- First- through fourth-degree criminal sexual conduct, sexual extortion, and criminal sexual predatory conduct. Minn. Stat. § 609.3455, subds. ~~6-8~~. 6-8.
- Use of minors in sexual performance. Minn. Stat. § 617.246, subd. 7.
- Child pornography. Minn. Stat. § 617.247, subd. 9.

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