

The Commission cannot abrogate the amelioration doctrine

- The common-law amelioration doctrine (*State v. Kirby* (Minn. 2016)) applies an amended criminal statute to crimes committed before its effective date if:
 - There is no legislative statement clearly establishing intent to abrogate the doctrine;
 - The amendment mitigates punishment; and
 - Judgment is not final on the amendment’s effective date.
- The 2019 Commission tried to abrogate the amelioration doctrine when amending the Sentencing Guidelines
- But the Legislature, not the Commission, must abrogate the amelioration doctrine (*State v. Robinette* (Minn. 2021))

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1

Robinette’s implications: 2019 criminal history score changes

Decay Changes

Custody Status Point Changes

Felony

Misdemeanor

New Half-Point

Repeal of Some Eligible Statuses

Waiver

Within Original Probation Term

§ 152.18

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2

Implications for Sentencing Guidelines section 3.G.1

[3.]G. Modifications

1. Policy Modifications. Modifications to sections 1 through 8 of the Minnesota Sentencing Guidelines, and associated commentary and appendices, apply to offenders whose date of offense is on or after the specified modification effective date.
2. Clarifications of Existing Policy. Modifications to commentary and appendices relating to existing Guidelines policy apply to offenders sentenced on or after the specified effective date.