

## Summary of Major Sentencing Guidelines Changes

The Minnesota Sentencing Guidelines and Commentary, Revised November, 1983, contain extensive editorial changes, updates resulting from legislative action, and policy changes. The editorial changes are found primarily in the commentary. Discussions of sentencing practices during the period the guidelines were developed have been replaced with descriptions of more current sentencing practices.

UPDATES RESULTING FROM LEGISLATIVE ACTION INCLUDE THE FOLLOWING:

### II.A. Offense Severity:

- The following offenses have been excluded from the Offense Severity Reference Table. The court will determine the appropriate severity rankings for these offenses.

Falsely impersonating another - 609.83  
Horse racing-prohibited act - 299J.29  
Motor vehicle excise tax - 297B.10  
Obscene materials; distribution - 617.2Y1  
Other acts relating to gambling - 609.76  
Penalties (sales tax violations) - 297A.39  
Possession of pictorial representations of minors-617.24  
Prohibiting promotion of minors to engage in obscene works - 617.246  
Sales tax without permit, violations - 297A.08  
(Page 3)

### II.B. Criminal History

- Multiple sentences for a single course of conduct when one of the offenses is kidnapping is treated in the same fashion as the similar burglary situation in computing criminal history scores, i.e., limited to one felony point. (Page 4)

### II.E. Mandatory Sentences

- Good time can now be earned off mandatory minimum sentences and therefore the inflated presumptive sentences for those offenses have been reduced. If the mandatory minimum sentence is a year and a day, the presumptive sentence is a year and a day or the cell time, whichever is longer. A mandatory minimum of three years yields a presumptive sentence of 36 months or the cell time, whichever is longer. A mandatory five year minimum yields a presumptive sentence of 60 months or the cell time, whichever is longer. (Page 20)

## V. OFFENSE SEVERITY REFERENCE TABLE

Severity rankings for new offenses and revised rankings for old offenses are as follows:

- X Adulteration - 609.687 subd. 3(1)
- IX Murder 2 - 609.19(1)  
(previously at severity level X)

- VII Burglary 1 - 609.582 subd. 1(b) & (c)
- VI Burglary 1 - 609.582 subd. 1(a)
- V Burglary 2 - 609.582 subd. 2(a) & (b)  
Criminal Vehicular Operation - 609.21 subd. 1  
Possession of Incendiary Device-299F.79;299F.80; 299F.811;299F.815;  
299F.82,subd.1
- IV Accidents - 169.09 subd. 14 (a) (1)  
Adulteration - 609.687, subd. 3(2)  
Burglary - 609.58 subd. 2(1)(a) & (c), & (3)  
Burglary 2 - 609.582 subd. 2(c) & (d)  
Burglary 3 - 609.582 - subd. 3  
False Imprisonment - 609.255 subd. 3  
Malicious Punishment of Child - 609.377  
Neglect of Child - 609.378  
Tax Evasion - 290.53, subsd. 4 & 8  
Tax Withheld at Source; Fraud (over \$2,500) - 290.92  
subd. 25(5) & (12); 290A.11 subd. 2  
Theft of Controlled Substances - 609.52 subd. 3(1)
- III Accidents - 169.09 subd. 14 (a) (2)  
Criminal Vehicular Operation - 609.21 subd. 2  
False Imprisonment - 609.255 subd. 2  
Tax Withheld at Source; Fraud (\$301-\$2,500) - 290.92, subd. 25(5)  
& (12); 290A.11, subd. 2  
Tear gas and tear gas compounds - 624.731 subd. 3(b)  
Theft Crimes - \$250-\$2,500 (See Theft Offense List)  
Theft of Controlled Substances - 609.52, subd. 3(2)  
Theft Related Crimes - Over \$2,500 (See Theft Related Offense List)
- II Aggravated Forgery (\$250-\$2,500) - 609.625  
Theft Related Crimes - \$250-\$2,500 (See Theft Related Offense List)
- I Assault 4 - 609.2231  
Aggravated Forgery (Less than \$250) - 609.625  
Forgery - 609.63; and Forgery Related Crimes

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POLICY CHANGES BASED ON COMMISSION ACTION INCLUDE THE FOLLOWING:

II.B. Criminal History

- When an offender has a custody status point and the offender's criminal history score is over 6 points, an additional three months is added to the cell time which becomes the presumptive duration. (Page 8)
- A custody status point will be assigned when the current conviction offense is criminal vehicular operation and the offender was under supervision for an aggravated DWI at the time of the current offense. (Page 8)

- When the current conviction offense is criminal vehicular operation, prior DWI and aggravated DWI offenses will be used in the computation of the misdemeanor point. (Page 9)
- Because of the ten year record retention schedule for misdemeanors adopted by the court, a prior misdemeanor will not be used if ten years has elapsed since the conviction for the offense, regardless of the decay factor. (Page 10)
- The juvenile point will be based on findings pursuant to an admission in court or trial rather than upon formal juvenile adjudications. (Page 11)

#### II.C. Presumptive Sentence

- The presumptive disposition for burglary of an occupied dwelling is commitment to the Commissioner if there was a previous adjudication for felony burglary that was imposed before the current offense occurred. (Page 14)

#### III.C. Jail Credit

- Credit will be awarded for time spent in a jail or workhouse as a condition of a stayed sentence if the offender is later revoked and committed to the Commissioner of Corrections. (Page 29)

Time spent in confinement under Huber Law will be awarded at the rate of twelve hours for each 24 hour period. (Page 29)

#### IV. SENTENCING GUIDELINES GRID

Durations have been decreased in 14 cells at severity levels I, II, and III as indicated on the attached grid. Durations have been increased in two cells at severity levels IX and X. (Page 31)

The Minnesota Sentencing Guidelines and Commentary, November, 1983, are effective November 1, 1983. Virtually all guidelines revisions prior to this year were to increase sentences. Therefore, in the past, the effective date has meant "for crimes committed on or after" the effective date. This year some durational reductions in presumptive sentences have occurred. Those reductions are retroactive and therefore it is anticipated that those reduced presumptive sentences will be effective for sentences imposed on or after November 1, 1983. It is assumed that modifications that increase sentences for offenders would be effective for offenses committed on or after November 1, 1983.

The Minnesota Sentencing Guidelines and Commentary, Revised November, 1983 will be available for purchase from the State Documents Center as soon as they are printed. Inquiries should be directed to:

State Documents Center  
 117 University Avenue  
 St. Paul, MN 55155  
 Phone: (612) 297-3000 or  
 (Minnesota Residents) Tollfree 1-800-652-9747

The Minnesota Sentencing Guidelines and Commentary, Revised November, 1983 will also be included in the Minnesota Statutes 1983 Pocket Parts Supplement and various West publications.

Figure 1

Modifications Adopted at the July 28, 1983 Meeting  
Effective November 1, 1983

SEVERITY LEVELS OF CONVICTION OFFENSE		CRIMINAL HISTORY SCORE						
		0	1	2	3	4	5	6 or more
Unauthorized Use of Motor Vehicle Possession of Marijuana	I				13	15	17	19 18 - 20
Theft Related Crimes (\$250-\$2500) Aggravated Forgery (\$250-\$2500)	II			13	15	17	19	21 20 - 22
Theft Crimes (\$250-\$2500)	III			15	17	19 18-20	22 21-23	25 24-26
Nonresidential Burglary Theft Crimes (over \$2500)	IV							
Residential Burglary Simple Robbery	V							
Assault, 2nd Degree	VI							
Aggravated Robbery	VII							
Criminal Sexual Conduct, 1st Degree Assault, 1st Degree	VIII							
Murder, 3rd Degree Murder, 2nd Degree (felony murder)	IX	105 102-108						
Murder, 2nd Degree (with intent)	X	120 116-124						

1st Degree Murder is excluded from the guidelines by law and continues to have a mandatory life sentence.

\*one year and one day