



Guidelines Restructuring Draft Preview

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Putting the following slides in context

- In February, I introduced you to a restructuring concept for the Sentencing Guidelines
- Since then, the Restructuring Committee and I—with great assistance from Ben Johnson, House Research—have been working toward getting you a draft of the restructured Guidelines for your consideration
- The draft language displayed on these slides **is not that draft!!!** This is preview-only language that has not been adopted by the committee
- These slides, and the table of contents in your meeting materials, are for illustrative purposes only—so you will be more prepared to receive the real draft before the October meeting

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APPLICABILITY & EFFECTIVE DATES

New guidelines on applicability and effective dates consolidate scattered material in a logical place

Generous use of cross-references to related information (here, to the guideline that explains how the Guidelines' presumptive sentence is the basis for the minimum term of imprisonment for life sentences under Minn. Stat. § 609.3455)

For accuracy, guideline 1.30 refers to the amelioration doctrine

History section at the end of every guideline; right now, "history" begins in 2026, but this can be expanded backward someday

severity characteristics. Therefore, departures from the presumptive sentences established in the Sentencing Guidelines may be made only when the court can identify and articulate substantial and compelling circumstances that justify a departure.

History: 2026 Minn. Sentencing Guidelines & Commentary 1.A & 1.B.13; restructured 2027.

1.20 APPLICABILITY.

Subdivision 1. **Applicability in general.** (a) The Sentencing Guidelines apply to all adult sentences for convictions of felonies committed on or after May 1, 1980.

(b) The Sentencing Guidelines in effect on the date the conviction offense took place (see guideline 1.30) determine the presumptive sentence, except that:

(1) if multiple offenses are an element of the conviction offense, the date of the conviction offense must be determined by the factfinder; and

(2) if offenses have been aggregated as permitted by statute, the date of the earliest offense must be used as the date of the conviction offense.

Subd. 2. **Applicability to juveniles.** (a) The Guidelines apply when determining the appropriate sentence for a juvenile certified as an adult under Minn. Stat. § 260B.125.

(b) For an extended jurisdiction juvenile (EJJ) prosecution, the Guidelines apply:

(1) to the designation of the proceeding as an EJJ prosecution, to the extent such designation is based on the presumptive Guidelines disposition (see Minn. Stat. § 260B.130, subd. 1(2)), and

(2) to the presumptive duration of the stayed adult sentence pronounced as part of the EJJ disposition imposed under Minn. Stat. § 260B.130, subd. 4(a)(2)).

Subd. 3. **Life sentences.** (a) The Sentencing Guidelines do not apply to a mandatory life sentence under Minn. Stat. § 609.106, 609.185, 609.2661, or 609.3455, subd. 2.

(b) Regarding a mandatory life sentence under Minn. Stat. § 609.3455, subd. 3 or 4, see guideline 2.63, subd. 4.

(c) Regarding Minn. Stat. § 609.385 (treason), see guideline 7.40 (unranked offenses).

History: 2026 Minn. Sentencing Guidelines & Commentary 2, 2.E.4, & 3.D; restructured 2027.

1.30 EFFECTIVE DATE OF POLICY CHANGES.

Subdivision 1. **Policy modifications; effective date.** (a) Except as provided in paragraph (b),

THEFT OFFENSES' SEVERITY LEVELS

There are enough special rules for the severity of theft offenses to warrant their own guideline

Here, clarifying commentary is promoted to the Guidelines due to the frequency of misunderstandings

Chapter 2 (determining the presumptive sentence) is naturally the longest chapter in the Guidelines. For this reason, six subchapters—each introduced by an unnumbered heading—logically divide the chapter and guide the reader

2.25 OFFENSE SEVERITY FOR THEFT OFFENSES.

Subdivision 1. **Theft offense list.** For offenses listed in guideline 7.60 (theft offense list), the severity level is either severity level 2 when the monetary value is \$5,000 or less, or severity level 3 when the monetary value exceeds \$5,000.

Subd. 2. **Specific theft offense rankings.** Notwithstanding subdivision 1, if guideline 7.10 assigns a specific severity level to the current offense, the specific severity level, rather than the severity level in guideline 7.60, applies. Thus, for example, regardless of value:

(1) permanent theft of a motor vehicle is ranked at severity level 4 if the conviction is under the general theft statute, Minn. Stat. § 609.52, subd. 2(a)(1), and the offense involves theft of a motor vehicle; and

(2) motor vehicle use without consent is ranked at severity level 3 if the conviction is under Minn. Stat. § 609.52, subd. 2(a)(17).

Subd. 3. **Theft creating a risk of harm.** If Minn. Stat. § 609.52, subd. 3a(a)(2), applies to a felony theft offense, the severity level ranking is elevated by one severity level from that established in subdivisions 1 and 2.

History: 2026 Minn. Sentencing Guidelines & Commentary 2.A.2 & Comment 2.A.05; restructured 2027.

CRIMINAL HISTORY

2.30 CRIMINAL HISTORY SCORE.

The horizontal axis divides the Sentencing Guidelines grids into columns based on possible criminal history scores. An individual's criminal history score is the sum of points from eligible:

(1) prior felonies; and

(2) prior misdemeanors and gross misdemeanors.

History: 2026 Minn. Sentencing Guidelines & Commentary 2.B; restructured 2027.

2.31 POINTS FROM PRIOR FELONIES.

Subdivision 1. **Eligible prior felonies.** (a) Except as provided in subdivision 2, each felony conviction is eligible for inclusion in the criminal history score if, before the current sentencing, a felony sentence was stayed or imposed or a stay of imposition of sentence was given for the conviction.

(b) For the purpose of this guideline, the imposition of an adult criminal sentence as part

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Staff Presentation

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ATTEMPTED FIRST-DEGREE MURDER

2.G.12, the special one-line “grid” for attempt or conspiracy to commit first-degree murder, is moved into the presumptive sentence subchapter; it is not truly a modifier

To aid in web display and accessibility, all footnotes are replaced with ordinary text

There are two “modifying” subchapters: one for disposition and one for duration. All policies that modify one or the other are gathered into one of these subchapters

sentence that would exceed the statutory maximum, the statutory maximum must be used as the presumptive sentence.

History: 2026 Minn. Sentencing Guidelines & Commentary 2.C.1.b & c; restructured 2027.

2.43 ATTEMPT OR CONSPIRACY, FIRST-DEGREE MURDER.

Subdivision 1. **Presumptive sentences.** For an attempt or conspiracy to commit either first-degree murder under Minn. Stat. § 609.185 or first-degree murder of an unborn child under Minn. Stat. § 609.2661, the presumptive disposition is commitment. The presumptive durations are as follows:

CONVICTION OFFENSE	CRIMINAL HISTORY SCORE							Custody status
	0	1	2	3	4	5	6 or more	
<i>Attempt or conspiracy to commit murder 1st degree</i>	180 153-216	190 162-228	200 170-240	210 179-240*	220 187-240*	230 196-240*	240 204-240*	+10

Subd. 2. **Notes.** In this grid, an asterisk indicates that the statutory maximum penalty limits the upper end of the range. Presumptive sentence lengths are in months. Italicized numbers within the grid denote the presumptive range, within which the court may sentence without the sentence being a departure. See guideline 2.61 for an explanation of the custody status column.

History: 2026 Minn. Sentencing Guidelines & Commentary 2.G.12; restructured 2027.

MODIFYING THE PRESUMPTIVE DISPOSITION

2.50 MODIFYING A PRESUMPTIVE DISPOSITION FROM A STAY TO COMMITMENT.

(a) Notwithstanding guideline 2.41 (presumptive disposition), when a policy in guideline 2.51 or 2.52 applies to the current offense, the presumptive disposition is commitment.

(b) Granting a stay of imposition or stay of execution to a sentence modified under paragraph (a) is a dispositional departure.

(c) A modification to the presumptive disposition does not alter the presumptive duration established in guidelines 2.42 and 2.60 to 2.66.

History: Adopted 2027.

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STATUTORY DISPOSITION MODIFIERS

This guideline gathers all disposition-modifying statutes—now scattered in 2.C.3, 2.E.1, 2.E.2, and 2.G.9—together

No attempt is made to restate the statutory requirements; the intent is to provide enough information to be helpful without supplanting the statute

When durational modifiers or consecutive-sentence policies also apply, cross-references are made

2.51 STATUTES THAT MODIFY THE PRESUMPTIVE DISPOSITION.

Subdivision 1. **General rule.** (a) When a statute requires imprisonment for one year or more, the presumptive disposition is commitment, regardless of whether the statute provides a process for waiver of the imprisonment requirement. A stay of imposition or stay of execution pursuant to such a waiver process is a dispositional departure.

(b) Statutes that require imprisonment for one year or more may also modify the presumptive duration (see guideline 2.63, mandatory minimum durations).

(c) This guideline lists statutes that require imprisonment for one year or more. If such a statute applies to an offense for which guideline 2.41 already presumes commitment, however, the statute is not listed because its requirement does not modify the presumptive dispositions.

Subd. 2. **Specific statutes.** Statutes that modify the presumptive disposition include, but are not limited to, the following:

(1) **Second-degree controlled substance crime as a subsequent controlled substance conviction.** If Minn. Stat. § 152.022, subd. 3(b), applies, the presumptive disposition is commitment. Guideline 2.63 (mandatory minimum durations) also applies.

(2) **Third sequential violent felony.** If Minn. Stat. § 609.1095, subd. 3, applies, the presumptive disposition is commitment.

(3) **Certain offenses involving firearms, other dangerous weapons, or ammunition.** If Minn. Stat. § 609.11, subd. 4 or 5, applies, the presumptive disposition is commitment. Guideline 2.63 (mandatory minimum durations) also applies.

(4) **Assaults against secure treatment facility personnel.** If Minn. Stat. § 609.2231, subd. 3a(d), applies, the presumptive disposition is commitment.

(5) **Assaults committed while confined.** If Minn. Stat. § 609.2232(a), (b)(1), (b)(2), or (b)(3) applies, the presumptive disposition for the assault is commitment. Guideline 2.72 or 2.73 (presumptively or permissively consecutive sentences) may also apply.

(6) **Crimes committed for the benefit of a gang.** If Minn. Stat. § 609.229, subd. 4, applies, the presumptive disposition is commitment. Guideline 2.65 (other policies that add to the presumptive duration) also applies.

(7) **Repeat or egregious sex offenses.** If Minn. Stat. § 609.3455, subd. 3, 4, or 10, applies, the presumptive disposition is commitment. Guideline 2.63 (mandatory minimum durations) may also apply.

MODIFIERS' ORDER OF OPERATIONS

Guideline 2.55 illustrates two goals of this project. First, **logical organization**: Although dispositional, this policy is also part of permissive-consecutive sentencing policy. It should be visible in both the dispositional modifiers subchapter and the consecutive-sentences subchapter. Second, **clarity**: The meaning of this policy was hazy, and has been rewritten to reflect staff's best understanding of the Commission's original intent.

If more than one durational modifier applies, the resulting presumptive sentence can differ depending on the order in which the modifiers are applied. For this reason, the subchapter on durational modifiers begins with a new, standard order of operations.

2.55 PERMISSIVE COMMITMENT FOR CERTAIN CONSECUTIVE OFFENSES.

It is not a dispositional departure to execute a sentence, regardless of whether the appropriate cell on the applicable grid indicates that the sentence should be stayed, if the court imposes the sentence consecutively to an executed sentence for a different offense pursuant to guideline 2.73, subd. 6.

History: 2026 Minn. Sentencing Guidelines & Commentary 2.F.2.a(2); restructured 2027.

MODIFYING THE PRESUMPTIVE DURATION

2.60 MODIFYING THE PRESUMPTIVE DURATION IN GENERAL.

(a) Notwithstanding guideline 2.42 (presumptive duration), when a policy in guidelines 2.61 through 2.66 applies to the current offense, the presumptive duration must be modified accordingly.

(b) A modification to the presumptive duration does not alter the presumptive disposition established in guidelines 2.41 and 2.50 to 2.55.

(c) If more than one of the policies in the following guidelines apply to the current offense, the presumptive duration must be modified in the following sequence, as applicable:

- (1) first, by guideline 2.61 (custody status at the time of the offense);
- (2) second, by guideline 2.62 (policies that reduce the presumptive duration by half);
- (3) third, by guideline 2.63 (mandatory minimum durations);
- (4) fourth, by guideline 2.64 (policies that increase the presumptive duration by a percentage);
- (5) fifth, by guideline 2.65 (other policies that add to the presumptive duration); and

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(6) sixth, by guideline 2.66 (final calculation of presumptive duration).

History: 2026 Minn. Sentencing Guidelines & Commentary 2.G.1; restructured 2027.

2.61 CUSTODY STATUS AT THE TIME OF THE OFFENSE.

HALFTIME MODIFIERS

Guideline 2.62 groups together all modifiers that reduce the presumptive duration by half

While brevity is not necessarily the goal of this project, guideline 2.62 illustrates how clarity and logical organization can result in saving many words

Subd. 4. **Exceptions.** (a) This guideline does not apply to:

- (1) commitment for treatment or examination under Minn. R. Crim. P. 20; or
- (2) custody ordered by a juvenile court for other than an EJJ conviction.

(b) A prior felony conviction that resulted in a non-felony sentence (misdemeanor or gross misdemeanor) is not a qualifying offense or a sex offense within the meaning of this guideline.

(c) This guideline does not apply to a presumptively or permissively consecutive sentence pursuant to guideline 2.72 or 2.73.

History: 2026 Minn. Sentencing Guidelines 2.C.2; restructured 2027.

2.62 POLICIES THAT REDUCE THE PRESUMPTIVE DURATION BY HALF.

Subdivision 1. **In general.** (a) Except as provided in paragraph (c), when the current offense is any of the following, the presumptive duration must be modified to be half the presumptive duration applicable to the underlying offense:

- (1) an attempt to commit the underlying offense, in violation of Minn. Stat. § 609.17;
- (2) a conspiracy to commit the underlying offense, in violation of Minn. Stat. § 609.175;
- (3) soliciting a mentally impaired person to commit the underlying offense, in violation of Minn. Stat. § 609.493 subd. 2(b);
- (4) soliciting or conspiring with a minor to commit the underlying offense, in violation of Minn. Stat. § 609.494, subd. 2(b); or
- (5) assuming responsibility for the underlying offense, in violation of Minn. Stat. § 609.495, subd. 4.

(b) **Applicability to certain sex offenses.** Paragraph (a) applies to an attempt or conspiracy to commit sex trafficking or criminal sexual conduct, notwithstanding Minn. Stat. §§ 609.322, subd 1(c), 609.342, subd. 2(b), and 609.343, subd. 2(b). These provisions are statutorily created presumptive sentences, not mandatory minimums.

(c) **Exceptions.** Paragraph (a) does not apply to:

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DEPARTURES

Because conditional-release terms and departures are not part of finding the presumptive sentence, they were removed from chapter 2. The former was placed in chapter 5, “related policies,” and the latter was given its own chapter 6.

CHAPTER 6

DEPARTURES FROM THE GUIDELINES

6.10 DEPARTURES IN GENERAL.

Subdivision 1. **Departures from the presumptive sentence.** (a) The sentences provided in chapter 2 are presumed to be appropriate for the crimes to which they apply. The court must pronounce a sentence of the applicable disposition and within the applicable prison range unless there exist identifiable, substantial, and compelling circumstances to support a departure.

(b) The court may depart from the presumptive disposition or duration provided in the Guidelines, and stay or impose a sentence that it deems to be more appropriate than the presumptive sentence. A departure is not controlled by the Guidelines, but rather, is an exercise of judicial discretion constrained by statute or case law.

(c) Departures with respect to disposition and duration are separate decisions, each requiring written departure reasons. A court may depart from the presumptive disposition without departing from the presumptive duration, and vice-versa.

(d) When imposing a sentence that is an aggravated departure, the court should pronounce a sentence proportional to the severity of the crime for which the sentence is imposed and the criminal history of the person being sentenced, and take into consideration the purposes and underlying principles of the Guidelines.

Subd. 2. **Sentences within misdemeanor or gross misdemeanor limits.** A pronounced sentence for a felony conviction that is shorter than the appropriate prison range on the applicable grid, as determined by chapter 2, including a stayed or imposed gross misdemeanor or misdemeanor sentence, is a mitigated durational departure.

(a) Under Minn. Stat. § 609.13, if a court pronounces a misdemeanor or gross misdemeanor sentence for a felony conviction, that conviction is deemed a gross misdemeanor or misdemeanor. The sentence is a mitigated durational departure because it is below the presumptive range, which cannot be below 12 months.

(b) In contrast, if the prosecutor amends the charge to a gross misdemeanor or misdemeanor offense prior to conviction, a gross misdemeanor or misdemeanor sentence will not be a departure because the sentence will be consistent with the level of the charge. When the prosecutor amends the charge, the prosecutor must amend it to an existing gross misdemeanor or misdemeanor offense.

OFFENSE SEVERITY REFERENCE TABLE

Guidelines 5.A is divided into four lists (three grids + unranked)

If a severity level continues onto another page, the level displays at the top of the page automatically

Offense names and statute references are standardized

7.30 SEVERITY LEVELS OF OFFENSES ON THE DRUG OFFENSE GRID.

Subdivision 1. The offenses listed in this guideline are the offenses on the drug offense grid shown in guideline 3.30 and are ranked at the severity levels given.

Subd. 2. The following offenses are ranked at severity level D9:

D9

Controlled substance crime, aggravated first-degree, Minn. Stat. § 152.021, subd. 2b.

Importing a controlled substance into Minnesota, Minn. Stat. § 152.0261.

Manufacturing methamphetamine, Minn. Stat. § 152.021, subd. 2a.

Subd. 3. The following offense is ranked at severity level D8:

D8

Controlled substance crime in the first degree, Minn. Stat. § 152.021, subd. 1 or 2.

Subd. 4. The following offense is ranked at severity level D7:

D7

Controlled substance crime in the second degree, Minn. Stat. § 152.022.

Subd. 5. The following offenses are ranked at severity level D6:

D6

Controlled substance crime in the third degree, Minn. Stat. § 152.023.

Subd. 6. The following offense is ranked at severity level D5:

D5

Possession of substances with intent to manufacture methamphetamine, Minn. Stat. § 152.0262.

Subd. 7. The following offense is ranked at severity level D4:

D4

Controlled substance crime in the fourth degree, Minn. Stat. § 152.024.

Subd. 8. The following offenses are ranked at severity level D3:

ALL OFFENSES BY STATUTE

Guidelines 5.B becomes guideline 7.50—by far the longest guideline

Offense names are rewritten, if necessary, for clarity, accuracy, and criminality—so “Insurance Regulations” becomes “Violation of health insurance laws,” and “Forced Execution of Declaration” becomes “Living will fraud resulting in bodily harm”

Footnotes are replaced by inline cross-references to the applicable guideline. Here, guideline 2.51 explains the dispositional modifier for second-degree controlled substance crime as a subsequent controlled substance conviction.

7.50 ALL OFFENSES BY STATUTORY CITATION.

This guideline lists, in order of Minnesota statutory citation, all offenses listed in guidelines 7.10 to 7.40. Each offense’s severity ranking, or an indication that the offense is designated as unranked, is also displayed. For some offenses, applicable notes follow the ranking.

Minn. Stat. Section	Offense Title	Severity Level
3.191	Altering an engrossed bill	Unranked
6.53	Refusal to assist the state auditor	Unranked
35.824	Misuse or alteration of a brand	1
53B.66	Violation of money transmission laws	1
62A.41	Violation of health insurance laws	1
80A.68, 80B.10, subd. 1, or 80C.16, subd. 3	Violation of securities or commercial laws resulting in a loss of over \$2,500	4
80A.68, 80B.10, subd. 1, or 80C.16, subd. 3	Violation of securities or commercial laws resulting in a loss of \$2,500 or less	3
82A.13 & 82A.25	Violation of membership camping laws	Unranked
83.43	Violation of the Subdivided Land Sales Practices Act	Unranked
86B.865, subd. 1	Watercraft title fraud	1
90.41	Timber scaler or state appraiser misconduct	4
116C.835	Violation of the Midwest Interstate Low-Level Radioactive Waste Compact	Unranked
145B.105	Living will fraud resulting in bodily harm	Unranked
152.021, subd. 1 or 2	First-degree controlled substance crime	D8
152.021, subd. 2a	Manufacturing methamphetamine	D9
152.021, subd. 2b	Aggravated first-degree controlled substance crime	D9
152.022	Second-degree controlled substance crime	D7; see also guideline 2.51
152.023	Third-degree controlled substance crime	D6
152.024	Fourth-degree controlled substance crime	D4
152.025, subd. 4(b)	Fifth-degree controlled substance crime	D2
152.026	Importing a controlled substance into Minnesota	D9