



Restructuring the Sentencing Guidelines

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Stakeholders: “Simplify the Guidelines”

- In our comprehensive review stakeholder engagement process, we heard comments from many practitioners about the Guidelines’ simplicity
- The simplicity of the grids was appreciated, but the general complexity of the Guidelines was not
- One specific suggestion: Organize the Guidelines like Minnesota Statutes

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Problem 1: The Guidelines' outline structure

1980

- The 1980 Guidelines were organized in a hierarchical outline structure
- Guidelines' brevity (18 pages, no commentary yet) allowed the reader to grasp the context of a particular provision within the outline
- Even then, though, the reader could get lost in section II (Determining Presumptive Sentences, 7 pages)

TODAY

- With commentary and appendices, today's Guidelines are 149 pages long
- Section 2 (Determining Presumptive Sentences) is now 65 pages long—it's very easy to get lost in the outline hierarchy
 - Staff have added context clues at the bottom of each page

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Suggested solution: Adopt the statutory decimal format

- Minnesota Statutes are organized by chapters and sections—easy to find and cross-reference
- After the chapter number, sections are numbered decimally—so 609.025 comes between 609.02 and 609.03
- Suggestion: Adopt this familiar, less confusing format, applying the Revisor's standard style manual
- Instead of a "section," call each discrete policy chunk a "guideline"

2.24 PRIOR CONVICTIONS FROM OUTSIDE MINNESOTA.

Subdivision 1. **In general.** The state has the burden of proving the facts necessary to justify consideration of an out-of-state conviction in the criminal history score, and the court must make the final determination as to whether and how a prior non-Minnesota conviction should be counted in the criminal history score. The court should consider, but is not limited to, the factors in subdivisions 2 through 6, below. Guidelines 2.2 through 2.23 govern the use of these convictions.

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Problem 2: A mess of mandatory minimums and modifiers

PROBLEMS	STAFF-SUGGESTED SOLUTIONS
<ul style="list-style-type: none"> Policies that modify the grid disposition and/or duration—mandatory minimums and modifiers—are squirrelled away in various parts of sections 2.C, 2.E, and 2.G Disorganized/disconnected/hard to find Interplay between each other—and between consecutive-sentence policy—is unclear Quite a bit of repetition Resulting ranges don't always comport with legal 15% down/20% up requirement 	<ul style="list-style-type: none"> Organize mandatory minimums and modifiers in a logical order at the end of chapter 2 Provide a clear order of operations Ensure durations and ranges comply with the law
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A potpourri of other problems (& solutions)

PROBLEM	STAFF-SUGGESTED SOLUTION
"Offender" is an impersonal term	Replace term with personal language where feasible
Rules about how the Guidelines apply are scattered	Consolidate all such rules in new chapter 1 guideline
Some inconsistencies with recent supreme court cases	Incorporate <i>Kirby, Scovel & Strobel</i> in the Guidelines
Unrelated topics in big presumptive-sentence chapter	Relocate departures, conditional release, consecutive
Theft severity-level rules can be confusing	Create new guideline with clear rules
Some policy language is found only in commentary	Promote those comments to Guidelines text
Treatment of prior stays of imposition is only implied	Make the currently understood policy explicit
Challenge to maintain ranking tables; annual error risk	Automate table design and eliminate footnotes
Inconsistent or unclear offense names	Make offense names consistent/apply Revisor style
History of changes is hard to research	Start a change-history section for each guideline
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