

Staff Issue Paper

Sentencing Guidelines Technical Modifications

April 27, 2026

Updated: May 28, 2026

Part A of this paper contains staff-suggested technical modifications to the Sentencing Guidelines. Staff recommends that the Commission adopt these modifications in time for inclusion in the August 1, 2026, edition of the Sentencing Guidelines. Part B contains previously approved modifications that will take effect August 1, 2026; no action is required.

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A. Staff-Recommended Technical Modifications

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 three of these issues. If the Commission were to act on these issues by June 4, 2026, the modifications could be heard at the public hearing on July 16, 2026.

This document was prepared by the staff of the Minnesota Sentencing Guidelines Commission for the Commission’s review. This document has not been adopted by the Commission and does not necessarily represent its views.

1. Include Custody Status of Offenses Related to First-Degree Murder

On December 18, 2025, the Commission adopted a package of proposals related to its comprehensive review of the Sentencing Guidelines. There is presently no known legislative action to block these proposed Guidelines changes. Included was a durational increase for custody status at the time of the offense. As defined, custody status must be for a qualifying offense, and qualifying offenses were defined with reference to the three sentencing grids. Because first-degree murder carries a mandatory life sentence and is therefore not on a sentencing grid, it was inadvertently excluded from the “qualifying offense” definition; also inadvertently omitted was an attempt or conspiracy to commit first-degree murder, which has a special, one-line sentencing grid.

Suggested Modification

Insert reference to first-degree murder, including attempts and conspiracies, as shown below.

Possible modifications to 2025 Minn. Sentencing Guidelines & Commentary, Section 2.C.2, effective August 1, 2026:

* * *

2. Custody Status at the Time of the Offense.

a. Definitions. As used in this section (2.C.2), the following terms have the meanings given:

(1) “Custody status” means a qualifying status that:

- (i) followed entry of guilty plea, guilty verdict, or conviction for a qualifying offense, and
- (ii) was in effect at any time when the person being sentenced committed the current offense.

(2) “Qualifying status” means any of the following:

- (i) probation;
- (ii) parole;
- (iii) supervised release;
- (iv) conditional release following release from an executed prison sentence;
- (v) release pending sentencing;
- (vi) confinement in a jail, workhouse, or prison pending or after sentencing; and
- (vii) escape from confinement following an executed sentence.

(3) "Qualifying offense" means:

- (i) a felony offense assigned a severity level of 3 or greater on the Standard Grid, a felony offense assigned a severity level of D3 or greater on the Drug Offender Grid, ~~or~~ a felony offense on the Sex Offender Grid, or murder in the first degree, including of an unborn child, whether completed, an attempt, or a conspiracy; or
- (ii) a felony offense equivalent, within the meaning of section 2.B.5, to an offense described in clause (i).

(4) "Sex offense" means:

- (i) a felony offense on the Sex Offender Grid other than failure to register as a predatory offender, Minn. Stat. § 243.166; or
- (ii) a felony offense equivalent, with the meaning of section 2.B.5, to an offense described in clause (i).

* * *

2. Remove an Example Offense in Comment 2.C.06

The second example in the comment is incorrect because the statutory maximum was raised to five years in 2021. [2021, 1st special session, Ch. 11, sec. 38.](#)

Suggested Modification

Delete second example as shown below.

Possible modifications to 2025 Minn. Sentencing Guidelines & Commentary, Comment 2.C.06, effective August 1, 2026:

* * *

2.C.06. *There are rare instances where the presumptive sentence length exceeds the statutory maximum sentence. If this situation occurs, the statutory maximum sentence becomes the presumptive sentence. For example, Threats of Violence under Minn. Stat. § 609.713, subd. 3(a)(1) or (2) carries a statutory maximum sentence of 12 months and 1 day. At a Severity Level 1, the statutory maximum will be exceeded when the offender reaches a Criminal History Score of 3. ~~As another example, Soliciting Children for Sexual Conduct under Minn. Stat. § 609.352 carries a statutory maximum sentence of three years. At Severity Level G, the statutory maximum will be exceeded when the offender reaches a Criminal History Score of 4.~~*

3. Repeal of Marijuana and Controlled Substance Taxation

Chapter 297D, Marijuana and controlled substance taxation, was repealed by [2025 Minn. Laws 1st Sp. Sess. ch. 13, art. 8, § 22](#), effective August 1, 2025.

Suggested Modification

Delete references to taxation as described below.

Possible modifications to 2025 Minn. Sentencing Guidelines & Commentary, section 5, effective August 1, 2026:

* * *

5.A. Offense Severity Reference Table

Offenses subject to a mandatory life sentence, including first-degree murder and certain sex offenses under Minn. Stat. § 609.3455, subdivision 2, are excluded from the Guidelines by law.

* * *

Severity Level	Offense Title	Statute Number
D6	Controlled Substance Crime 3rd Degree	152.023
	Failure to Affix Stamp on Cocaine	297D.09, subd. 1a
	Failure to Affix Stamp on Hallucinogens or PCP	297D.09, subd. 1a
	Failure to Affix Stamp on Heroin	297D.09, subd. 1a
	Failure to Affix Stamp on Remaining Schedule I & II Narcotics	297D.09, subd. 1a

* * *

D2	Cannabis Cultivation 1st Degree	152.0265, subd. 1
	Cannabis Possession 1st Degree	152.0263, subd. 1
	Cannabis Sale 1st Degree	152.0264, subd. 1
	Controlled Substance Crime 5th Degree	152.025, subd. 4(b)
	Failure to Affix Stamp on Remaining Schedule I, II, & III Non-Narcotics	297D.09, subd. 1a

D2	Cannabis Cultivation 1st Degree	152.0265, subd. 1
	Medical Cannabis Violations (Submission of False Records)	152.33, subd. 4
	Sale of Synthetic Cannabinoids	152.027, subd. 6(c)

* * *

D1	Failure to Affix Stamp on Illegal Cannabis	297D.09, subd. 1a
	Failure to Affix Stamp on Schedule IV Substances	297D.09, subd. 1a
	Medical Cannabis Violations (Intentional Diversion)	152.33, subd. 1
	Medical Cannabis Violations (Diversion by patient, registered Designated Caregiver, or Parent)	152.33, subd. 2
	Sale of Simulated Controlled Substance	152.097

* * *

5.B. Severity Level by Statutory Citation

Offenses subject to a mandatory life sentence, including first-degree murder and certain sex offenses under Minn. Stat. § 609.3455, subdivision 2, are excluded from the Guidelines by law.

* * *

Statute Number	Offense Title	Severity Level
297D.09 subd. 1a	Failure to Affix Stamp on Cocaine	D6
297D.09 subd. 1a	Failure to Affix Stamp on Hallucinogens or PCP (Angel Dust), Incl. LSD	D6
297D.09 subd. 1a	Failure to Affix Stamp on Heroin	D6
297D.09 subd. 1a	Failure to Affix Stamp on Remaining Schedule I and II Narcotics	D6
297D.09 subd. 1a	Failure to Affix Stamp on Remaining Schedule I, II, & III Non-Narcotics	D2
297D.09 subd. 1a	Failure to Affix Stamp on Illegal Cannabis	D1
297D.09 subd. 1a	Failure to Affix Stamp on Schedule IV Substance	D1

* * *

4. Correct the Definition of “Presumptive Range” *(Item added 5/4/2026)*

Similar to recommendation number 1, above, as part of its comprehensive review, the Commission voted to provide durational ranges in the shaded (“presumptive stayed”) cells on the grids. However, the definition of “Presumptive Range” was not updated.

Suggested Modification

Update the definition, as shown below.

Possible modifications to 2025 Minn. Sentencing Guidelines & Commentary, Section 1.B.13.c, effective August 1, 2026:

* * *

B. Definitions

As used in these Sentencing Guidelines (or “Guidelines”), the following terms have the meanings given.

* * *

13. Presumptive Sentence. “Presumptive sentences” are those sentences provided on the Sentencing Guidelines. They are presumptive because they are presumed to be appropriate for all typical cases sharing criminal history and offense severity characteristics.
 - a. Presumptive Disposition. The “presumptive disposition” is the recommendation for either a commitment or a stayed sentence.
 - (1) Presumptive Commitment. A “presumptive commitment” is a recommended disposition of imprisonment for cases contained in cells outside of the shaded area on the Grids.
 - (2) Presumptive Stayed Sentence. A “presumptive stayed sentence” is a recommendation for a stayed sentence for cases contained in the cells within the shaded area on the Grids.
 - b. Presumptive Duration. The “presumptive duration” is the recommended fixed sentence length in months found in the appropriate cell on the applicable Grid.
 - c. Presumptive Range. The “presumptive range” is provided for ~~a sentence that is a presumptive commitment~~ each presumptive duration. Pursuant to Minn. Stat. § 244.09, subd. 5(2), the range is 15 percent lower and 20 percent higher than the fixed duration displayed in each cell on the Grids.
 - d. Lower Range. The “lower range” is that portion of the presumptive range that is shorter than the fixed presumptive duration.

B. Previously Adopted Technical Modifications

The following technical modifications were previously approved and will be included in the August 1, 2026, edition of the Sentencing Guidelines. No Commission action is required at this time.

Repeal of Medical Cannabis Violations

On July 27, 2023, after public hearing, the Commission adopted a proposal to strike section 5’s references to medical cannabis violations. The Commission proposed these modifications at its meeting on June 7, 2023.

Minn. Stat. § 152.33 was repealed by [2023 Minn. Laws ch. 63, art. 6, § 73](#), paragraph (a), effective August 1, 2025, but the effective date of the repeal was changed to December 1, 2025, by [2024 Minn. Laws ch. 121, art. 2, § 147](#).

Adopted Modification

References to medical cannabis violations are deleted as shown below.

Adopted modifications to 2025 Minn. Sentencing Guidelines & Commentary, section 5:

* * *

5.A. Offense Severity Reference Table

Offenses subject to a mandatory life sentence, including first-degree murder and certain sex offenses under Minn. Stat. § 609.3455, subdivision 2, are excluded from the Guidelines by law.

Severity Level	Offense Title	Statute Number
* * *		
D2	* * *	
	Medical Cannabis Violations (Submission of False Records)	152.33, subd. 4
	* * *	
D1	* * *	
	Medical Cannabis Violations (Intentional Diversion)	152.33, subd. 1
	Medical Cannabis Violations (Diversion by patient, registered Designated Caregiver, or Parent)	152.33, subd. 2
	* * *	

5.B. Severity Level by Statutory Citation

Offenses subject to a mandatory life sentence, including first-degree murder and certain sex offenses under Minn. Stat. § 609.3455, subdivision 2, are excluded from the Guidelines by law.

Statute Number	Offense Title	Severity Level
* * *		
152.33, subd. 1	Medical Cannabis Violations (Intentional Diversion)	D1
152.33, subd. 2	Medical Cannabis Violations (Diversion by patient, registered Designated Caregiver, or Parent)	D1
152.33, subd. 4	Medical Cannabis Violations (Submission of False Records)	D2
* * *		

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