

Staff Information Paper

Selected Violence-Related Crime Lists

March 2, 2021

Commission members have expressed interest in reviewing the statutory definitions of violent crime.

Background

Table 1 displays the members of five statutory crime lists (per 2020 Minnesota Statutes). Those lists are:

- “Crime[s] of violence,” as defined by Minn. Stat. § [624.712, subd. 5](#). Persons convicted of a crime on this list face a mandatory five-year executed prison term for subsequently possessing a firearm.¹
- “Violent crime[s],” as defined by Minn. Stat. § [609.1095, subd. 1\(d\)](#). Persons who repeatedly commit crimes on this list face enhanced penalties.²
- Crimes listed in Minn. Stat. § [609.11, subd. 9](#) (referred to as “crime[s] of violence” in Minn. Stat. § [609.495, subd. 3](#)). Persons who commit crimes on this list while possessing or using a firearm or other dangerous weapon face mandatory prison terms.³ Persons who aid those who have committed crimes on this list may be guilty of Accomplice After the Fact.⁴ A group is not a “criminal gang” unless it has, as one of its primary activities, the commission of a crime on this list.⁵
- “Predatory crime[s],” as defined by Minn. Stat. § [609.341, subd. 22](#). Persons who commit crimes on this list with sexual motivation may be guilty of Criminal Sexual Predatory Conduct and face enhanced penalties (hence, sex offenses are not included on the list).⁶ Engrained sex offenders may face enhanced penalties for sex offenses if previously convicted of a crime on this list.⁷
- “Heinous crime[s],” as defined by Minn. Stat. § [609.106, subd. 1\(a\)](#). Persons convicted of a crime on this list must, if subsequently convicted of any degree of murder, be sentenced to the statutory maximum.⁸

¹ Minn. Stat. § [609.11, subd. 5\(b\)](#).

² Minn. Stat. § [609.1095, subd. 2](#) & 3. *See also* footnote 13.

³ Minn. Stat. § [609.11, subd. 4](#) & 5(a).

⁴ Minn. Stat. § [609.495, subd. 3](#).

⁵ Minn. Stat. § [609.229, subd. 1\(1\)](#).

⁶ Minn. Stat. § [609.3453](#).

⁷ Minn. Stat. § [609.3455, subd. 3a](#).

⁸ *I.e.*, life without the possibility of release, in the case of murder in the first degree. Minn. Stat. §§ [609.106, subd 2\(3\)](#), & [609.107](#).

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.

These five crime lists are by no means exhaustive. Other crime lists—such as lists of prior offenses that disqualify someone from licensure or employment,⁹ the list of qualified domestic violence-related offenses¹⁰ (which contain several non-felony offenses), and the list of offenses that require an offender to register as a predatory offender¹¹—might have been included, but were not. Although these five lists generally share common attributes—for example, the name or membership of most of these lists connotes violence or seriousness; each list’s members are primarily or exclusively felonies; and each list is used to enhance or create criminal penalties—these attributes might also apply to other lists.

In addition to these statutory lists, Table 1 contains the “Severe Violent Offense” list established in section 8 of the Minnesota Sentencing Guidelines. For a second or subsequent severe violent offense, the presumptive sentence is increased by at least twelve months. In addition, a custody status point derived from a severe violent offense is nonwaivable.¹²

Table 1. Membership of Selected Violence-Related Crime Lists.

Minn. Statute	Crime	624.712 Crime of Violence	609.1095 Violent Crime	609.11, subd. 9 Crime of Violence	609.341 Predatory Crime	609.106 Heinous Crime	Sent. Guidelines § 8 Severe Violent Off.
609.165	Crime-of-Violence Convict Possess Firearm/Ammo		x	x			
609.185	Murder 1	x	x	x	x	x	x
609.19	Murder 2	x	x	x	x	x	x
609.195(a)	Murder 3 (Depraved Mind)	x	x	x	x	x	x
609.195(b)	Murder 3 (Controlled Substances)	x	x	x	x	x	
609.20	Manslaughter 1	x	x	x	x		
609.205	Manslaughter 2	x	x	x	x		
609.2112	Criminal Vehicular Homicide		x				
609.2113	Felony ¹³ Criminal Vehicular Operation		x				
609.2114	Criminal Vehicular Operation; Unborn Child		x				
609.215	Aiding Suicide	x					

⁹ See, e.g., Minn. Stat. §§ [122A.20](#), [122A.40](#), [145A.061](#), [146A.08](#), [245C.15](#), [299C.61](#), [299C.67](#) & [518.179](#).

¹⁰ Minn. Stat. § [609.02, subd. 16](#).

¹¹ Minn. Stat. § [243.166, subd. 1b\(a\)](#).

¹² [Minn. Sentencing Guidelines & Commentary](#) §§ 2.G.14, 2.B.2.e(4), & 8. These provisions took effect August 1, 2019, and apply to crimes committed on or after that date.

¹³ Non-felonies, while not excluded from Minn. § [609.1095](#) list, are not used for all § 609.1095 enhancements and are therefore excluded from this list. Subdivision 3, which mandates an executed Sentencing Guidelines sentence for a third violent crime, requires that all three violent crimes be felonies. On the other hand, the dangerous-offender statute (subd. 2), which authorizes aggravated Guidelines departures, requires only the current violent crime to be a felony; neither of the two prior violent crimes must be a felony. (The statute contains other requirements as well.)

Minn. Statute	Crime	624.712 Crime of Violence	609.1095 Violent Crime	609.11, subd. 9 Crime of Violence	609.341 Predatory Crime	609.106 Heinous Crime	Sent. Guidelines § 8 Severe Violent Off.
609.221	Assault 1	x	x	x	x	x	x
609.222	Assault 2 (Dangerous Weapon)	x	x	x	x		
609.222	Assault 2 (Dangerous Weapon with Substantial Bodily Harm)	x	x	x	x		x
609.223	Assault 3	x	x	x	x		
609.2231	Felony Assault 4	x					
609.224	Felony Assault 5	x					
609.2242	Felony Domestic Assault	x					
609.2247	Domestic Assault by Strangulation	x					
609.228	Distribute Drugs Causing Great Bodily Harm		x				
609.229	Felony Committed for Benefit of Gang	x	x				
609.235	Use Drugs to Injure or Facilitate Crime	x	x				
609.24	Simple Robbery	x	x	x	x		
609.245	Aggravated Robbery 1	x	x	x	x		x
609.245	Aggravated Robbery 2	x	x	x	x		
609.25	Kidnapping (Safe Release/No Great Bodily Harm)	x	x	x	x		
609.25	Kidnapping (Great Bodily Harm/Unsafe Release/Victim Under 16)	x	x	x	x		x
609.255	Felony False Imprisonment	x	x	x ¹⁴	x		
609.2661	Murder 1 of Unborn Child		x				x
609.2662	Murder 2 of Unborn Child		x				x
609.2663	Murder 2 of Unborn Child		x				x
609.2664	Manslaughter 1 of Unborn Child		x				
609.2665	Manslaughter 2 of Unborn Child		x				
609.267	Assault 1 of Unborn Child		x				
609.2671	Assault 2 of Unborn Child		x				
609.268	Assault 3 of Unborn Child		x				
609.282	Labor Trafficking						x
609.322	Solicit, etc., Prostitution; Sex Trafficking	x					

¹⁴ Gross misdemeanors are not excluded from Minn. Stat. § [609.11, subd. 9](#).

Minn. Statute	Crime	<u>624.712</u> Crime of Violence	<u>609.1095</u> Violent Crime	<u>609.11, subd. 9</u> Crime of Violence	<u>609.341</u> Predatory Crime	<u>609.106</u> Heinous Crime	<u>Sent. Guidelines § 8</u> Severe Violent Off.
609.342	Criminal Sexual Conduct 1 (with force or violence)	x	x	x	15	x	x ¹⁶
609.342	Criminal Sexual Conduct 1 (except sig. relationship)	x	x	x	15		
609.342	Criminal Sexual Conduct 1 (significant relationship)	x	x		15		
609.343	Criminal Sexual Conduct 2 (with force or violence)	x	x	x	15	x	x ¹⁶
609.343	Criminal Sexual Conduct 2 (except sig. relationship)	x	x	x	15		
609.343	Criminal Sexual Conduct 2 (significant relationship)	x	x		15		
609.344	Criminal Sexual Conduct 3 (with force or violence)	x	x	x	15	x	
609.344	Criminal Sexual Conduct 3 (except sig. relationship et al.)	x	x	x	15		
609.344	Criminal Sexual Conduct 3 (all other clauses)	x	x		15		
609.345	Criminal Sexual Conduct 4	x	x		15		
609.377	Felony Malicious Punishment of Child	x	x				
609.378	Felony Child Neglect/Endangerment	x	x				
609.485	Escape from Custody			x			
609.486	Commit Crime with Bulletproof Vest	x					
609.498	Witness Tampering 1		x	x	x		
609.498	Witness Tampering Agg 1			x	x		x
609.52	Theft of Firearm, Explosive, or Incendiary Device	x					
609.52	Theft of Controlled Substance	x					
609.561	Arson 1	x	x	x	x		x ¹⁷
609.562	Arson 2	x	x	x			
609.563	Arson 3			x			
609.582	Burglary 1	x	x	x	x		
609.582	Burglary 2	x		x			
609.582	Burglary 3			x			

¹⁵ See text accompanying footnote 6, above, for an explanation of why sex offenses are not included in this list.

¹⁶ Specifically, subd. 1(c), 1(d), 1(e), or 1(f).

¹⁷ Excluding subd. 3 (destruction of building with flammable material).

Minn. Statute	Crime	624.712 Crime of Violence	609.1095 Violent Crime	609.11, subd. 9 Crime of Violence	609.341 Predatory Crime	609.106 Heinous Crime	Sent. Guidelines § 8 Severe Violent Off.
609.66	Drive-By Shooting	x	x	x			x ¹⁸
609.67	Machine Gun/Short-Barreled Shotgun	x					
609.687	Adulteration		x				
609.71	Riot 1	x					
609.71	Riot 2	x					
609.713	Felony Threats of Violence	x					
609.749	Felony Stalking	x	x				
609.749	Aggravated Stalking with Weapon	x	x	x			
609.855	Shoot Public Transit Vehicle/Facility	x	x				
624.713	Child Possess Pistol/Semiauto Military Weapon		x				
624.713	Crime-of-Violence Convict Possess Firearm/Ammo		x	x			
152.021	Controlled Substance Crime 1	x	x	x			
152.022	Controlled Substance Crime 2	x	x	x			
152.023	Controlled Substance Crime 3	x	x ¹⁹	x			
152.024	Controlled Substance Crime 4	x	x ¹⁹	x			
152.025	Controlled Substance Crime 5	x		x			
152.0261	Importing Controlled Substance	x	x	x			
152.0262	Possess Meth Precursors with Intent	x		x			
152.0262	Possess Meth Precursors with Intent-Subsequent	x	x	x			
152.027	Sell Synthetic Cannabinoid	x		x			
152.097	Sell Simulated Controlled Substance	x		x			
152.136	Sell/Misuse Anhydrous Ammonia	x		x			
152.137	Meth Crime Involving Child/Vuln. Adult	x	x	x			
152.33	Medical Cannabis Diversion/False Records	x		x			

¹⁸ Subd. 1e(b) (toward a person or occupied motor vehicle or building) only.

¹⁹ Not counted for mandatory execution on third violent felony per § [609.1095](#).