



MINNESOTA
SENTENCING GUIDELINES
COMMISSION

Overview of Minnesota’s Criminal History Policy

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The criminal history score: the horizontal axis of the sentencing grid

For more serious offenses, the criminal history score has only one function: to increase the recommended prison time

SEVERITY LEVEL OF CONVICTION OFFENSE (Examples in Italics)	CRIMINAL HISTORY SCORE					
	0	1	2	3	4	5
Murder, 2nd Degree (Intentional, Drive By Shootings)	306	326	346	366	386	406
Murder, 2nd Degree (Unintentional)	261-367	278-391	295-415	312-439	329-463	346-480 ¹
Murder, 3rd Degree (Deproved Mind)	150	150	150	150	150	150
Murder, 3rd Degree (Drugs)	86	86	86	86	86	86
Assault, 1st Degree (Great Bodily Harm)	4-103	84-117	94-132	104-146	114-160	123-158
Agg. Robbery, 1st Degree (w/ Weapon Assault)	41-57	58	68	78	88	98
Felony DWI	36	42	48	54	60	66
Financial Exploitation of a Vulnerable Adult	21	27	33	39	45	51
Assault, 2nd Degree (Burglary, 1st Degree (Occupied Dwelling))	18	23	28	33	38	43
Residential Burglary (Simple Robbery)	12	15	18	21	24	27
Nonresidential Burglary	12	13	15	17	19	21
Theft Crimes (Over \$5,000)	12	13	15	17	19	21
Theft Crimes (\$5,000 or less)	12	12	13	15	17	19
Check Forgery (\$251-\$2,500)	12	12	12	13	15	17
Assault, 4th Degree (Fleeing a Peace Officer)	12	12	12	13	15	17

Note: the grid doesn't go higher than 6 points

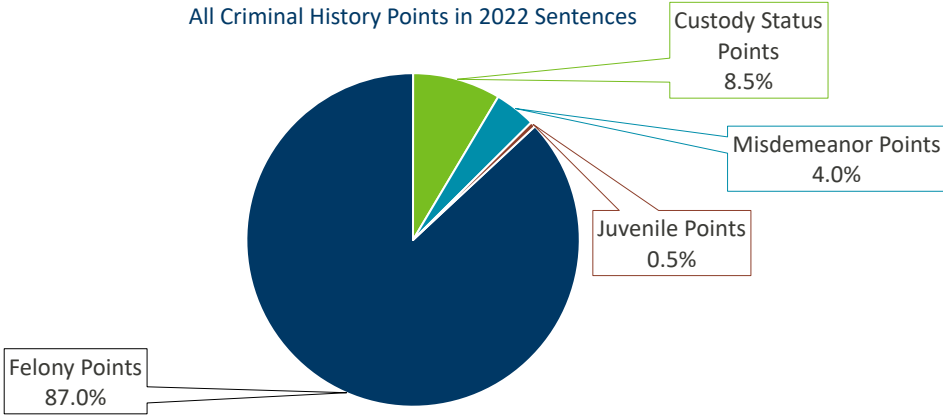
For less serious offenses, a higher criminal history score also changes the recommended prison disposition from stay to commit*

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*unless the disposition was already a commit due to a mandatory minimum or other Guidelines policy

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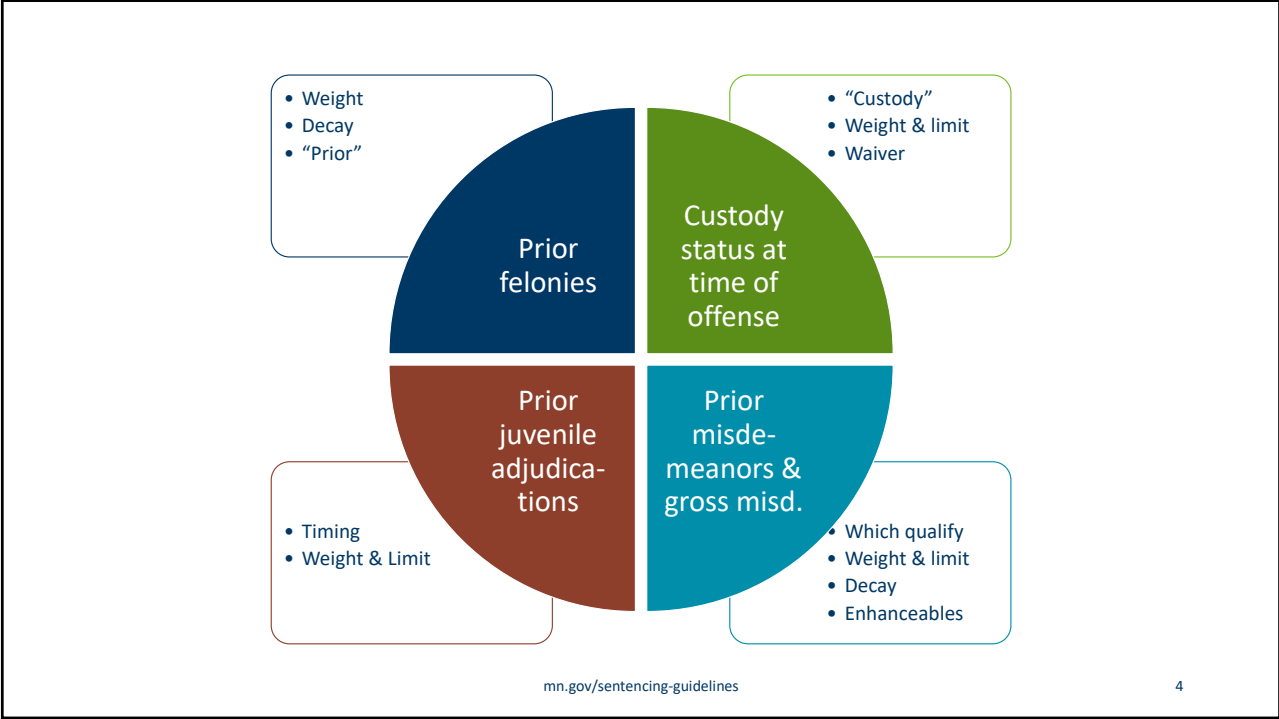
There are four components of criminal history. In practice, they do not equally contribute to the score.



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Prior Felonies

Weight	Decay	“Prior”
<ul style="list-style-type: none"> The weight value varies by prior felony’s severity—from ½ point for lowest severity to 2 points for highest severity Extra weight (3 points max.) if both current and prior offenses are sex offenses or FRPO <i>Note: Expunged records still count</i> 	<ul style="list-style-type: none"> To count, the prior felony’s sentencing date (or release from prison, if applicable) must be within 15 years of the new offense date Exception: no decay if defendant was still in custody or being supervised for the prior felony on the new offense date 	<ul style="list-style-type: none"> An offense is “prior” if sentenced before the current sentencing This is generally true even if both offenses are sentenced at the same hearing This accumulation of criminal history at one hearing is colloquially called “Hernandizing”

Prior felonies

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Prior misdemeanors & gross misd.

Prior Misdemeanors & Gross Misdemeanors

Which Qualify	Weight & Limit	Decay	Enhanceables
<ul style="list-style-type: none"> Misdemeanors on “targeted misd.” list (booking required) All gross misd. except traffic offenses not involving DWI/CVO or recklessness Felonies resulting in misd./gross misd. sentence <i>Note: Although legally misdemeanors, completed felony stays-of-imposition count in the felony component</i> 	<ul style="list-style-type: none"> Each qualifying misd. or gross misd. is worth one “unit” Four units are worth one point Limit of one point Exception: For DWI/CVO/CVH, prior DWIs/CVOs are worth two units each, with no point limit 	<ul style="list-style-type: none"> Decay period is ten years between earlier sentence date and new offense date 	<ul style="list-style-type: none"> If the new offense is a felony only because of a prior misd. or gross misd., do not count that prior <i>Note: This rule does not apply to prior felonies</i> For subsequent felony DWI, never count the DWIs that first enhanced DWI to felony

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Prior Juvenile Adjudications

Weight & Limit

Timing

- Two prior felony juvenile adjudications are worth one point
- The offenses must have been separate offenses or involved separate victims
- For most offenses: Limit of 1 point
- No limit for offenses where the Guidelines would have presumed imprisonment if committed by an adult
- Note: Convictions as an Extended Jurisdiction Juvenile (EJJ) count in the felony component*

- The defendant must have been at least 14 when committing the juvenile offenses
- The defendant must have been under age 25 when committing the new offense

Prior juvenile adjudications

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Custody Status at the Time of the Offense

“Custody”

Weight & Limit

Waiver

- This component looks at custody status on the date of the crime
- In addition to prison & jail, “custody” includes probation (common) & other post-conviction/ guilty-plea statuses
- Note: If the criminal history score is 7 or more and includes a custody status component, the presumptive duration increases by 3 months*

- 1 point for most prior felonies’ custody status
- 2 points if current & custody status offense are sex offenses
- ½ point if custody status offense was a low-severity felony, targeted misd., or gross misd. (excluding traffic gross misd. not involving DWI or recklessness)
- Note: ½ custody status weight is on hold for now*

- The district court may waive custody status on a case-by-case basis, applying Guidelines considerations
- Waiver is not permitted in certain cases—chiefly, if current or custody status offense is ranked at or above severity levels 8, H, or D8

Custody status at time of offense

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Consecutive sentencing: when the criminal history score isn't used

- Under the rules that permit or presume consecutive sentencing, the criminal history score is used, as is normal, to calculate the presumptive **disposition**— which must ordinarily be a commit for consecutive sentencing to apply
- On the other hand, criminal history is **not** used to calculate the presumptive **duration** of the consecutive sentence
 - For **permissive** consecutive sentencing, the duration is calculated as if the criminal history score is **zero**
 - For **presumptive** consecutive sentencing, the duration is calculated as if the criminal history score is **one**

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Please refer to the Commission's web site for the actual Sentencing Guidelines policies that were discussed in this presentation.

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