



MINNESOTA

TASK FORCE ON MANDATORY
MINIMUM SENTENCES

Recommendations to the Legislature

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TASK FORCE ON MANDATORY
MINIMUM SENTENCES



Background

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Task force mandate

- Meet for **one year** (August 2025 – August 2026)
- Collect and analyze data on the charging, convicting, and sentencing of persons to **mandatory minimum sentences**
- Assess whether current laws and practices promote **public safety and equity in sentencing**
- Make **recommendations to the legislature**

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Diverse perspectives represented

three executive-branch officials working in corrections & criminal justice policy,
two county attorneys,
two defense attorneys,
two peace officers with shooting-investigation experience,
one retired judge,
one academic expert on other states’ laws,
one victims-rights representative,
and **one** person directly impacted by a mandatory minimum sentence

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Narrowing the focus to most common 90 percent

- Task force’s initial focus: the five types of mandatory minimums that comprise 98 percent of nearly 1,900 mandatory-minimum cases annually
- Not examined: life without possible release, etc.
- But: Task force decided not to examine drug mandatory minimums due to—
 - Legislative review within past decade
 - For some: Sentencing Guidelines tie-in

- *Possessing a firearm or ammunition after a crime of violence*
- *Possessing a firearm or using another dangerous weapon while committing a listed crime*
- *Failure to register as a predatory offender*

- *Sale or possession of 100+ grams or 500+ dosage units of certain drugs*
- *Subsequent controlled substance convictions*

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Possessing a firearm or ammo after a crime of violence

- From 1975 to 1993, a **crime of violence conviction** disqualified pistol possession for 10 years
 - **Felony drug crimes** were included as “crimes of violence” in 1987
- Big changes between 1993 and 1998:
 - **Juvenile adjudications** also triggered the ban
 - The ban was extended to **all firearms**
 - A **five-year mandatory-minimum** sentence, sometimes waivable, was added to Minn. Stat. § 609.11
- The ban became **lifetime** (with a discretionary judicial restoration option) in 2003, and was extended to **ammunition** in 2015

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Possessing a firearm or using another dangerous weapon while committing a listed crime

- The mandatory minimums in Minn. Stat. § 609.11 evolved from 1969 to 2016
- Basic requirements since 1974: ① Commit a crime on the list ② with a weapon
 - The list has no name, but the crimes generally seem violent
 - ... although all felony drug offenses were added to the list in 1989
- For **possessing a firearm** while committing a listed crime: 3-year mandatory minimum; 5-year mandatory minimum if repeat conviction
- For **using another dangerous weapon** while committing a listed crime: 1-year-and-1-day mandatory minimum; 3-year mandatory minimum if repeat conviction
- Complex scheme of waivability/nonwaivability

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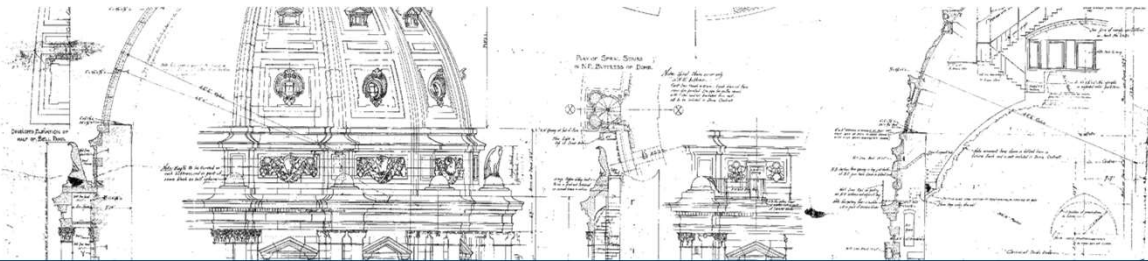
Failure to register as a predatory offender

- In 2000, “Katie’s Law” (after Katie Poirier) makes a predatory offender registration violation a **felony** and establishes two **mandatory minimums**:
 - First offense: 1-year-and-1-day mandatory minimum, waivable
 - Second or subsequent offense: 2-year mandatory minimum, waivable
- In 2022, the large majority of the Predatory Offender Statutory Framework Working Group recommended eliminating the mandatory minimum for first convictions, and shortening it for second or subsequent convictions

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 **MINNESOTA**
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MINIMUM SENTENCES

Task Force Recommendations

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Four consensus recommendations

1Move § 609.11’s penalty-enhancement scheme into the Sentencing Guidelines

2Remove nonviolent drug crimes from the firearm-disqualifying “crime of violence” list

3Eliminate mandatory minimum for first failures to register as a predatory offender

4Allow defendants, not just prosecutors, to request waiver of mandatory minimum sentences

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Why enhance penalties for committing violent crimes with dangerous weapons?

- **Involving firearms** or other dangerous weapons in the commission of **violent crimes** poses a **special danger to public safety**
- A special penalty **deters** such weapons involvement or, failing that, **incapacitates** those who choose to use weapons for violent crimes

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Move § 609.11’s penalty-enhancement scheme into the Sentencing Guidelines

For the greatest benefit to public safety, the most severe penalties should be reserved for—

- The **most serious weapons involvement**
- In committing the **most serious crimes**
- By those with the **most serious criminal histories**

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Evaluating Minn. Stat. § 609.11: Is punishment graded by seriousness of weapons involvement?

- Despite very different implications for public safety, § 609.11 does not distinguish between committing a violent crime—
 - While a firearm **is locked in a closet**
 - While **personally possessing** a firearm
 - While **brandishing** a firearm
 - While **discharging** a firearm
- Possessing a **bullet** after a crime of violence receives the same five-year mandatory minimum as possessing a **firearm**

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Move § 609.11’s penalty-enhancement scheme into the Sentencing Guidelines

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Evaluating Minn. Stat. § 609.11: Is punishment graded by seriousness of the crime being committed with the weapon?

- § 609.11 imposes the same minimum penalty whether the underlying offense is murder or fifth-degree drug possession
- For the most serious crimes listed in § 609.11—those ranked at severity level 8 and above—the **Minnesota Sentencing Guidelines** typically already recommend prison terms **as long as or longer than the mandatory minimum**
- Bottom line: Practically, § 609.11’s significant minimum **penalties fall only** on those committing **lower-severity crimes**, with **no penalty change** for those who use firearms to commit **the most dangerous crimes**

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Move § 609.11’s penalty-enhancement scheme into the Sentencing Guidelines

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Evaluating Minn. Stat. § 609.11: Is punishment graded by seriousness of the defendant’s criminal history?

- § 609.11 does have step-ups for repeatedly involving a weapon in committing a listed offense
- Regardless, for the typical listed offense—ranked at severity-level 6—the **Guidelines** will recommend a sentence **as long as or longer than** § 609.11’s minimum penalty **if the defendant has a very long criminal record**
- Bottom line: For a typical offense, the real effect of § 609.11’s penalties falls **only on those with little to no criminal experience**, with no penalty change for those with very long criminal histories

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Move § 609.11’s penalty-enhancement scheme into the Sentencing Guidelines

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Task force’s proposal: Move the penalty-enhancement scheme into the Sentencing Guidelines

The task force **unanimously** recommends:

- requiring the Sentencing Guidelines Commission to propose a Guidelines-based penalty scheme to **replace § 609.11**
- that would **enhance penalties** for committing **violent felonies with firearms** or while using other dangerous weapons
- by **2029** – the year of § 609.11’s repeal

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Move § 609.11’s penalty-enhancement scheme into the Sentencing Guidelines

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Specific legislative guidance to the Commission

- Commission must create a “violent felony” list from scratch
 - No need to list, *e.g.*, fifth-degree drug possession
- Consider accomplice liability
- Don’t double-punish weapons involvement if it’s already a necessary element of the violent crime

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Move § 609.11’s penalty-enhancement scheme into the Sentencing Guidelines

SIX PENALTY TIERS

Committing violent felony with:

1 Non-firearm weapon use

2 On-person firearm possession

3 Firearm use

4 Firearm use after crime of violence

5 Repeat firearm use w/ violent felony

6 Firearm discharge

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What would this do?

Redirect finite correctional resources:

- **away from** deterring and incapacitating those with **low criminal histories** who use weapons to commit of **mid- and low-severity offenses**
- **toward** deterring and incapacitating those who use weapons to commit the **most severe offenses** or who have the **lengthiest criminal records**

- If built into the Sentencing Guidelines, a properly calibrated penalty-enhancement scheme can weigh **offense severity, weapons involvement, and criminal history** together
- This would better serve public safety than the current **one-size-fits-most** mandatory minimum

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Move § 609.11’s penalty-enhancement scheme into the Sentencing Guidelines

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The firearms-disqualifying “crime of violence” list

- Most common mandatory minimum now: Five years for possessing a firearm or ammunition after a “crime of violence”
- It will continue to be a penalty enhancer if recommendation #1 is enacted
- For the ban and any penalty to be rational, the crimes on the “crime of violence” list must be truly violent
- Task force unanimously agrees that not all felony drug crimes belong in chapter 624’s “crime of violence” list

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Remove nonviolent drug crimes from the firearm-disqualifying “crime of violence” list

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Non-violent drug offenses

Task force consensus (12–1): eight drug crimes are not crimes of violence and should be removed from the firearm-disqualifying “crime of violence” list

- None involve drug sale, manufacture, or importation
- Several are eligible for deferred prosecution under § 152.18
- The others have statutory maximums at or below five years

- *3rd- & 4th-degree drug possession*
- *5th-degree drug possession**
- *1st-degree cannabis possession**
- *1st-degree cannabis cultivation**
- *Simulated controlled substance sale**
- *Tamper, steal, or transport anhydrous ammonia**
- *Exposing children or vulnerable adults to certain drugs**

* Unanimous

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Remove nonviolent drug crimes from the firearm-disqualifying “crime of violence” list

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Mandatory prison for first failures to register as a predatory offender

Per the 2022 working group reviewing predatory offender registration laws:

- Violating a POR requirement is Minnesota’s only non-victim, non-weapon crime with a mandatory minimum prison sentence for a first-time conviction
- Always among the most frequently granted mitigated dispositional departures
- Mandatory minimum should be eliminated for first offenses, and reduced to a year and a day for second offenses

The task force concurs with these conclusions and recommendations (11–2)

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Eliminate mandatory minimum for first failures to register as a predatory offender

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When prosecutors can ask for mandatory-minimum waivers, permit defense attorneys to do so as well

- Three mandatory minimum statutes allow a sentencing court, for substantial and compelling reasons, to sentence without regard to the mandatory minimum
- These three statutes permit only the prosecutor to bring a motion to waive the mandatory minimum
- In the interests of fairness and transparency, and to best inform the court, the task force unanimously recommends letting **either party** bring such a motion

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Allow defendants, not just prosecutors, to request waiver of mandatory minimum sentences

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