2023 At-a-Glance Guidelines Reference

This at-a-glance reference is an overview to the policies outlined in the 2022 Minnesota Sentencing Guidelines and Commentary. This reference sheet is not representative of the complete or official guidelines language and should not be referenced in official court communications.

Applying Guidelines Policies – Section 2

Always use the *Minnesota Sentencing Guidelines and Commentary* in effect when the current offense occurs to determine the severity level, policies such as sentence modifiers or mandatory minimums, and to find the presumptive sentence.

CRIMINAL HISTORY CALCULATION

Following the *State v. Robinette* decision by the MN Supreme Court in 2021, the policy changes made in 2019 to criminal history calculation will be applied to all offenses going forward, regardless of the offense date.

Felony Offenses – Section 2.B.1

- Must have received an imposed sentence of at least 1 year and 1 day, a Stay of Imposition, or an Extended Jurisdiction Juvenile (EJJ) conviction prior to sentencing on the current offense.
- Must not have decayed.
  - If the prior received a prison sentence: 15 years from expiration of the sentence to the current offense date.
  - If the prior received a stayed sentence that was not revoked: 15 years from the initial sentencing date to the current offense date.
  - If still under custody: Not decayed.
- Weights are assigned based on the severity level of the prior offense in effect when the current offense occurred *and* the Grid that the current offense is being sentenced from – Standard Grid, Drug Grid, or Sex Offense Grid.
- The policies in sec. 2.B.1.d(1) and (2) cover the application of weights to prior offenses sentenced under a Single Course of Conduct/Multiple Sentences or a Single Course of Conduct/Multiple Victims scenario.

Custody Status – Section 2.B.2

- Custody is assigned when the current offense is committed while the defendant is under an eligible custody status for an eligible offense.
  - **Assign one-half point*** when the custody offense is for a targeted misd. under Minn. Stat. § 299C.10, subd. 1(e), a non-traffic gross misd., a gross misd. DWI, Refusal to Test, or Reckless Driving, or a felony ranked at a severity level 1, 2, D1, or D2.
    - ***BUT:** A partial custody status point must be disregarded when calculating the presumptive sentence. *State v. Beganovic*, 974 N.W.2d 278, 288 (Minn. App. 2022), *review granted on other grounds* (Minn. June 29, 2022).
  - **Assign one full point** when the custody offense is for a felony ranked at severity level 3-12, D3-D9, or A-I.
  - **Assign a 2nd point** when both the custody offense and the current offense are found on the Sex Offender Grid at severity level A-H.

Targeted Misdemeanor and Gross Misdemeanor Offenses – Section 2.B.3

- Eligible priors included targeted misd. under Minn. Stat. § 299C.10, subd. 1(e); all non-traffic gross misd. offenses; gross misd. DWI, Refusal to Test, and Reckless Driving.
- Do not include DWI offenses committed by 16- or 17-year-old defendants.
- Is not decayed: 10 years from the initial sentencing date to the date the current offense occurred.
- Assign 1 unit to each prior with 4 units making 1 point, which is the maximum number of points in most cases.
- **Exception**: for a current felony DWI or CVH/CVO, eligible prior DWI and CVO offenses are 2 units each, and 2 priors make 1 point with no limit to points from these types of priors for those specific felonies.

Juvenile Offenses – Section 2.B.4

- The defendant must be under age 25 when the current offense occurs, and 14 years or older when the juvenile prior is committed.
- Prior offenses must be felonies that are adjudicated delinquent in juvenile court.
- Two priors make 1 point, which is the maximum number of points in most cases.
- Additional points can be assigned for offense that meet the above criteria but are also presumptive commits.

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Multiple Offenses in a Single Sentencing: *Hernandizing* – Section 2.B.1.e

Hernandizing is the process of counting criminal history when multiple current offenses are sentenced in the order they occurred in the same hearing. There are two exceptions to the standard *Hernandizing* policy:

- Single Course of Conduct/Multiple Sentences: When multiple offenses are imposed on the same date for a single course of conduct involving a burglary (Minn. Stat. § 609.585), a kidnapping (Minn. Stat. § 609.251, or a meth crime involving a child or vulnerable adult (Minn. Stat. § 152.137), offenses are not *Hernandized.* (2.B.1.e(1))
- Single Course of Conduct/Multiple Victims: When offenses involving multiple victims are sentenced, *Hernandize* only the two offenses at the highest severity level. (2.B.1.e(2))

Mandatory and Presumptive Sentences – Sections 2.C & 2.E

The disposition for these offenses is a commit and the duration found either on the applicable Grid or the duration from statute, applying whichever is longer (minimum duration is noted).

- The more common scenarios are:
  - 1st Degree Drugs, Minn. Stat. § 152.021, with prior 1st or 2nd degree drug conviction – 48 months
  - 2nd Degree Drugs, Minn. Stat. § 152.022, with prior 1st or 2nd degree drug conviction – 36 months
  - DWI with applicable prior felony DWI or eligible CVO/CVH – Grid time
  - Violation of Registration as a Predatory Offender, Minn. Stat. §243.166, subd. 5(c) – 24 months
  - Weapons Offenses:
    - Dangerous Weapon, Minn. Stat. § 609.11, subd. 4 – Grid time; 36 months subsequent
    - Firearm Offense, Minn. Stat. § 609.11.5(a) – 36 months; 60 months for subsequent
    - Felon in Possession of Firearm or Ammunition, Minn. Stat. § 624.713.1(b) or Unauthorized Persons/Firearm Minn. Stat. § 609.165 – 60 months for all offenses (first and subsequent)

Conditional Release – Section 2.E

- The extended term of supervision for executed sentences such as felony DWI and Criminal Sexual Conduct.
- Durations are 5 years, 10 years, 15 years, or Life depending on the offense.

Consecutive Sentences – Section 2.F

- **Permissive Consecutive** sentencing is applicable when the offense is found on the eligible offense list in Section 6 **and** the disposition for the offense(s) is a commit.
  - The duration imposed is found in the "0" box at the severity level on the applicable Grid.
  - An eligible offense can be sentenced consecutive to a prior eligible offense not expired or discharged.
- **Presumptive Consecutive** sentencing applies when the offense is escape from the term of imprisonment portion of an executed sentence, or is an offense committed during either the term of imprisonment portion of an executed sentence or while on escape from the term of imprisonment portion of an executed sentence.
  - The current offense(s) must be a presumptive commit.
  - The duration imposed is found in the "1" box at the severity level on the applicable Grid.
  - The imposed sentence must be either the presumptive consecutive sentence or the concurrent sentence indicated on the appropriate cell of the applicable Grid for the current offense, whichever is longer.

Sentencing Modifiers – Section 2.G

Sentencing modifiers are statutes or policies that can be used to define the punishment for an underlying offense.

- Modifiers can affect either, or both, the duration and the disposition found on the applicable Grid.
- A modifier which reduces the sentence will not calculate the sentence below 1 year and 1 day.
- A modifier which increases the sentence will not calculate the sentence above the statutory maximum.
- Any change to the presumptive sentence will also be applied to the upper and lower end of the range.

4.A. Sentencing Guidelines Grid

Presumptive sentence lengths are in months. Italicized numbers within the grid denote the discretionary range within which a court may sentence without the sentence being deemed a departure. Offenders with stayed felony sentences may be subject to local confinement.

SEVERITY LEVEL OF CONVICTION OFFENSE (Example offenses listed in italics)		CRIMINAL HISTORY SCORE						
		0	**1**	**2**	**3**	**4**	**5**	**6 or more**
Murder, 2nd Degree (Intentional; Drive-By-Shootings)	**11**	306 *261-367*	326 *278-391*	346 *295-415*	366 *312-439*	386 *329-463*	406 *346-480*[1]	426 *363-480*[1]
Murder, 2nd Degree (Unintentional) *Murder, 3rd Degree (Depraved Mind)*	**10**	150 *128-180*	165 *141-198*	180 *153-216*	195 *166-234*	210 *179-252*	225 *192-270*	240 *204-288*
Murder, 3rd Degree (Drugs) *Assault, 1st Degree (Great Bodily Harm)*	**9**	86 *74-103*	98 *84-117*	110 *94-132*	122 *104-146*	134 *114-160*	146 *125-175*	158 *135-189*
Agg. Robbery, 1st Degree *Burglary, 1st Degree (w/ Weapon or Assault)*	**8**	48 *41-57*	58 *50-69*	68 *58-81*	78 *67-93*	88 *75-105*	98 *84-117*	108 *92-129*
Felony DWI *Financial Exploitation of a Vulnerable Adult*	**7**	36	42	48	54 *46-64*	60 *51-72*	66 *57-79*	72 *62-84*[1,2]
Assault, 2nd Degree *Burglary, 1st Degree (Occupied Dwelling)*	**6**	21	27	33	39 *34-46*	45 *39-54*	51 *44-61*	57 *49-68*
Residential Burglary *Simple Robbery*	**5**	18	23	28	33 *29-39*	38 *33-45*	43 *37-51*	48 *41-57*
Nonresidential Burglary	**4**	12	15	18	21	24 *21-28*	27 *23-32*	30 *26-36*
Theft Crimes (Over $5,000)	**3**	12	13	15	17	19 *17-22*	21 *18-25*	23 *20-27*
Theft Crimes ($5,000 or less) *Check Forgery ($251-$2,500)*	**2**	12	12	13	15	17	19	21 *18-25*
Assault, 4th Degree *Fleeing a Peace Officer*	**1**	12	12	12	13	15	17	19 *17-22*

Presumptive commitment to state imprisonment. First-degree murder has a mandatory life sentence and is excluded from the Guidelines under Minn. Stat. § 609.185. See section 2.E, for policies regarding those sentences controlled by law.

Presumptive stayed sentence; at the discretion of the court, up to 364 days of confinement and other non-jail sanctions can be imposed as conditions of probation. However, certain offenses in the shaded area of the Grid always carry a presumptive commitment to state prison. See sections 2.C and 2.E.

[1] Minn. Stat. § 244.09 requires that the Guidelines provide a range for sentences that are presumptive commitment to state imprisonment of 15% lower and 20% higher than the fixed duration displayed, provided that the minimum sentence is not less than one year and the maximum sentence is not more than the statutory maximum. See section 2.C.1-2.

[2] For Severity Level 7 offenses other than Felony DWI, the standard range of 20% higher than the fixed duration applies at CHS 6 or more. (The range is 62-86.)

Examples of Executed Sentences (Length in Months) Broken Down by:
Term of Imprisonment and Supervised Release Term

Under Minn. Stat. § 244.101, offenders committed to the Commissioner of Corrections for crimes committed on or after August 1, 1993 will receive an executed sentence pronounced by the court consisting of two parts: a specified minimum term of imprisonment equal to two-thirds of the total executed sentence and a supervised release term equal to the remaining one-third. The court is required to pronounce the total executed sentence and explain the amount of time the offender will serve in prison and the amount of time the offender will serve on supervised release, assuming the offender commits no disciplinary offense in prison that results in the imposition of a disciplinary confinement period. The court must also explain that the amount of time the offender actually serves in prison may be extended by the Commissioner if the offender violates disciplinary rules while in prison or violates conditions of supervised release. This extension period could result in the offender's serving the entire executed sentence in prison.

Executed Sentence	Term of Imprisonment	Supervised Release Term	Executed Sentence	Term of Imprisonment	Supervised Release Term
12	8	4	78	52	26
13	8 ⅔	4 ⅓	86	57 ⅓	28 ⅔
15	10	5	88	58 ⅔	29 ⅓
17	11 ⅓	5 ⅔	98	65 ⅓	32 ⅔
18	12	6	108	72	36
19	12 ⅔	6 ⅓	110	73 ⅓	36 ⅔
21	14	7	122	81 ⅓	40 ⅔
23	15 ⅓	7 ⅔	134	89 ⅓	44 ⅔
24	16	8	146	97 ⅓	48 ⅔
27	18	9	150	100	50
28	18 ⅔	9 ⅓	158	105 ⅓	52 ⅔
30	20	10	165	110	55
33	22	11	180	120	60
36	24	12	190	126 ⅔	63 ⅓
38	25 ⅓	12 ⅔	195	130	65
39	26	13	200	133 ⅓	66 ⅔
42	28	14	210	140	70
43	28 ⅔	14 ⅓	220	146 ⅔	73 ⅓
45	30	15	225	150	75
48	32	16	230	153 ⅓	76 ⅔
51	34	17	240	160	80
54	36	18	306	204	102
57	38	19	326	217 ⅓	108 ⅔
58	38 ⅔	19 ⅓	346	230 ⅔	115 ⅓
60	40	20	366	244	122
66	44	22	386	257 ⅓	128 ⅔
68	45 ⅓	22 ⅔	406	270 ⅔	135 ⅓
72	48	24	426	284	142

4.B. Sex Offender Grid

Presumptive sentence lengths are in months. Italicized numbers within the grid denote the discretionary range within which a court may sentence without the sentence being deemed a departure. Offenders with stayed felony sentences may be subject to local confinement.

SEVERITY LEVEL OF CONVICTION OFFENSE (Example offenses listed in italics)		CRIMINAL HISTORY SCORE						
		0	**1**	**2**	**3**	**4**	**5**	**6 or more**
Criminal Sexual Conduct (CSC) 1st Degree	**A**	144 *144[2]-172*	156 *144[2]-187*	168 *144[2]-201*	180 *153-216*	234 *199-280*	306 *261-360*	360 *306-360[3]*
CSC 2nd Degree–1(a)(b)(c)(d)(e) 1a(a)(b)(c)(d)(h)(i) (e.g., contact & force with bodily harm)	**B**	90 *90[2]-108*	110 *94-132*	130 *111-156*	150 *128-180*	195 *166-234*	255 *217-306*	300 *255-360*
CSC 3rd Degree–1(a)(b)(c)(d) 1a(c)(d)(g)(h)(i) (e.g., penetration & coercion/occupation)	**C**	48 *41-57*	62 *53-74*	76 *65-91*	90 *77-108*	117 *100-140*	153 *131-183*	180 *153-216*
CSC 2nd Degree–1a(e)(f)(g) (age) *CSC 3rd Degree–1a(a)(e)(f) or 1a(b) with 2(1) (age)*	**D**	36	48	60 *51-72*	70 *60-84*	91 *78-109*	119 *102-142*	140 *119-168*
CSC 4th Degree–1(a)(b)(c)(d) 1a(c)(d)(g)(h)(i) (e.g., contact & coercion/occupation)	**E**	24	36	48	60 *51-72*	78 *67-93*	102 *87-120*	120 *102-120[3]*
CSC 4th Degree–1a(a)(b)(e)(f) (age) *CSC 5th Degree–3(b) (subsequent)*	**F**	18	27	36	45 *39-54*	59 *51-70*	77 *66-92*	84 *72-100*
CSC 3rd Degree–1a(b) with 2(2) *Possession of Child Pornography* *Solicit Child for Sexual Conduct*	**G**	15	20	25	30	39 *34-46*	51 *44-60*	60 *51-60[3]*
CSC 5th Degree–3(a) (nonconsensual penetration)	**H**	12	14	16	18	24	24[3] *24-24*	24[3] *24-24*
Failure to Register as a Predatory Offender	**I**	12[1] *12[1]-14*	14 *12[1]-16*	16 *14-19*	18 *16-21*	24 *21-28*	30 *26-36*	36 *31-43*

[1] 12[1]=One year and one day mandatory minimum under Minn. Stat. § 243.166, subd. 5(b).

Presumptive commitment to state imprisonment. Sex offenses under Minn. Stat. § 609.3455, subd. 2, have mandatory life sentences and are excluded from the Guidelines. See section 2.E, for policies regarding those sentences controlled by law, including conditional release terms for sex offenders.

Presumptive stayed sentence; at the discretion of the court, up to 364 days of confinement and other non-jail sanctions can be imposed as conditions of probation. However, certain offenders in the shaded area of the Grid may qualify for a mandatory life sentence under Minn. Stat. § 609.3455, subd. 4. See sections 2.C and 2.E.

[2] Sex Trafficking is not subject to a 144- or 90-month minimum statutory presumptive sentence so the standard range of 15% lower and 20% higher than the fixed duration applies. (For Severity Level A, Criminal History Scores 0, 1, & 2, the ranges are 123–172, 133–187, & 143–201, respectively. For Severity Level B, Criminal History Score 0, the range is 77–108.)

[3] Minn. Stat. § 244.09 requires that the Guidelines provide a range for sentences that are presumptive commitment to state imprisonment of 15% lower and 20% higher than the fixed duration displayed, provided that the minimum sentence is not less than one year and the maximum sentence is not more than the statutory maximum. See section 2.C.1–2. For Severity Level H, all displayed durations, including the upper and lower ranges, are constrained by the statutory maximum at criminal history scores above 4.

Examples of Executed Sentences (Length in Months) Broken Down by:
Term of Imprisonment and Supervised Release Term

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Executed Sentence	Term of Imprisonment	Supervised Release Term	Executed Sentence	Term of Imprisonment	Supervised Release Term
12 and 1 day	8 and 1 day	4	84	56	28
14	9 ⅓	4 ⅔	90	60	30
15	10	5	91	60 ⅔	30 ⅓
16	10 ⅔	5 ⅓	102	68	34
18	12	6	110	73 ⅓	36 ⅔
20	13 ⅓	6 ⅔	117	78	39
24	16	8	119	79 ⅓	39 ⅔
25	16 ⅔	8 ⅓	120	80	40
27	18	9	130	86 ⅔	43 ⅓
30	20	10	140	93 ⅓	46 ⅔
36	24	12	144	96	48
39	26	13	150	100	50
40	26 ⅔	13 ⅓	153	102	51
45	30	15	156	104	52
48	32	16	168	112	56
51	34	17	180	120	60
59	39 ⅓	19 ⅔	195	130	65
60	40	20	234	156	78
62	41 ⅓	20 ⅔	255	170	85
70	46 ⅔	23 ⅓	300	200	100
76	50 ⅔	25 ⅓	306	204	102
77	51 ⅓	25 ⅔	360	240	120
78	52	26			

4.C. Drug Offender Grid

Presumptive sentence lengths are in months. Italicized numbers within the grid denotes range within which a court may sentence without the sentence being deemed a departure. Offenders with stayed felony sentences may be subjected to local confinement.

SEVERITY LEVEL OF CONVICTION OFFENSE (Example offenses listed in italics)		CRIMINAL HISTORY SCORE						
		0	**1**	**2**	**3**	**4**	**5**	**6 or more**
Aggravated Controlled Substance Crime, 1st Degree Manufacture of Any Amt. Meth	**D9**	86 *74*-103*	98 *84*-117*	110 *94*-132*	122 *104*-146*	134 *114*-160*	146 *125*-175*	158 *135*-189*
Controlled Substance Crime, 1st Degree	**D8**	65 *56*-78*	75 *64*-90*	85 *73*-102*	95 *81*-114*	105 *90*-126*	115 *98*-138*	125 *107*-150*
Controlled Substance Crime, 2nd Degree	**D7**	48	58	68 *58-81*	78 *67-93*	88 *75-105*	98 *84-117*	108 *92-129*
Controlled Substance Crime, 3rd Degree Failure to Affix Stamp	**D6**	21	27	33	39 *34-46*	45 *39-54*	51 *44-61*	57 *49-68*
Possess Substances with Intent to Manufacture Meth	**D5**	18	23	28	33 *29-39*	38 *33-45*	43 *37-51*	48 *41-57*
Controlled Substance Crime, 4th Degree	**D4**	12	15	18	21	24 *21-28*	27 *23-32*	30 *26-36*
Meth Crimes Involving Children and Vulnerable Adults	**D3**	12	13	15	17	19 *17-22*	21 *18-25*	23 *20-27*
Controlled Substance Crime, 5th Degree	**D2**	12	12	13	15	17	19	21 *18-25*
Sale of Simulated Controlled Substance	**D1**	12	12	12	13	15	17	19 *17-22*

* Lower range may not apply. See section 2.C.3.c(1) and Minn. Stat. § 152.021, subdivisions 3(c) & 3(d).

Presumptive commitment to state imprisonment.

Presumptive stayed sentence; at the discretion of the court, up to 364 days of confinement and other non-jail sanctions can be imposed as conditions of probation. However, certain offenses in the shaded area of the Grid always carry a presumptive commitment to state prison. See sections 2.C and 2.E.

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Executed Sentence	Term of Imprisonment	Supervised Release Term	Executed Sentence	Term of Imprisonment	Supervised Release Term
12	8	4	58	38 ⅔	19 ⅓
13	8 ⅔	4 ⅓	65	43 ⅓	21 ⅔
15	10	5	68	45 ⅓	22 ⅔
17	11 ⅓	5 ⅔	75	50	25
18	12	6	78	52	26
19	12 ⅔	6 ⅓	85	56 ⅔	28 ⅓
21	14	7	86	57 ⅓	28 ⅔
23	15 ⅓	7 ⅔	88	58 ⅔	29 ⅓
24	16	8	95	63 ⅓	31 ⅔
27	18	9	98	65 ⅓	32 ⅔
28	18 ⅔	9 ⅓	105	70	35
30	20	10	108	72	36
33	22	11	110	73 ⅓	36 ⅔
38	25 ⅓	12 ⅔	115	76 ⅔	38 ⅓
39	26	13	122	81 ⅓	40 ⅔
43	28 ⅔	14 ⅓	125	83 ⅓	41 ⅔
45	30	15	134	89 ⅓	44 ⅔
48	32	16	146	97 ⅓	48 ⅔
51	34	17	158	105 ⅓	52 ⅔
57	38	19			