



MINNESOTA
SENTENCING GUIDELINES
COMMISSION

Sentencing Guidelines Overview

Linda McBrayer | Management Analyst 4
October 6, 2023

2019 MINN. SENTENCING GUIDELINES MODIFICATIONS

1

1

The effective dates for Guidelines policies

EFFECTIVE DATES for CURRENT OFFENSE

- Guidelines are in effect for offenses committed August 1st thru July 31st, except in 2021 when they are in effect September 15, 2021, thru July 31, 2022.
- We try to avoid the term “current Guidelines,” as the Guidelines in effect when the current offense occurs are considered the “current Guidelines,” and are used for items such as the severity level, the presumptive sentence, and any policies regarding modifiers or mandatory minimums.

EFFECTIVE DATE for CRIMINAL HISTORY CALCULATION

- The policy changes made on 8/1/2019 to criminal history calculation apply to all cases that were pending sentencing on 8/27/2021, regardless of the offense date.
- This date is based on the affirmation of *State v Robinette* by the MN Supreme Court.

mn.gov/sentencing-guidelines

2

2

Severity Levels: the Standard Sentencing Grid

The vertical axis on the Standard Grid represents the severity level of the current offense. Offenses listed on the Grid are examples of common offenses at that severity level.

Guidelines Consideration: Information is presented on offense description, similarly ranked offenses, stat. max. in addition to reference information.

Severity Level Ranking Principles: Adopted to support the goal of *public safety* by ranking person offenses higher than non-person offenses.

Unranked Offenses: The Commission can leave a new offense unranked; the court will rank the offense.

Staff Recommendation: The Staff may be able to offer direction based on its experience and expertise.

Commission Action: Based on the provided information, the Commission will then make a ranking decision.

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 or more	
<i>Murder, 2nd Degree (Intentional Drive-By Shootings)</i>	11	306 61-367	326 278-391	346 295-415	366 312-439	386 329-463	406 346-480 ¹ 363-480 ¹
<i>Murder, 2nd Degree (Unintentional)</i>	10	150	165	180	195	210	225
<i>Murder, 3rd Degree (Deprived Mind)</i>	9	86	98	110	122	134	146
<i>Murder, 3rd Degree (Drugs)</i>	9	86	98	110	122	134	146
<i>Assault, 1st Degree (Great Bodily Harm)</i>	9	86	98	110	122	134	146
<i>Agg. Robbery, 1st Degree</i>	8	48	58	68	78	88	98
<i>Burglary, 1st Degree (w/ Weapon or Assault)</i>	8	41-57	50-69	58-81	67-93	75-105	84-117
<i>Felony DWI</i>	7	36	42	48	54	60	66
<i>Financial Exploitation of a Vulnerable Adult</i>	7	36	42	48	54	60	66
<i>Assault, 2nd Degree</i>	6	21	27	33	39	45	51
<i>Burglary, 1st Degree (Occupied Dwelling)</i>	6	21	27	33	39	45	51
<i>Residential Burglary</i>	5	18	23	28	33	38	43
<i>Simple Robbery</i>	5	18	23	28	33	38	43
<i>Nonresidential Burglary</i>	4	12	15	18	21	24	27
<i>Theft Crimes (Over \$5,000)</i>	3	12	13	15	17	19	21
<i>Theft Crimes (\$5,000 or less)</i>	3	12	13	15	17	19	21
<i>Check Forgery (\$251-\$2,500)</i>	2	12	12	13	15	17	19
<i>Assault, 4th Degree</i>	1	12	12	12	13	15	17
<i>Fleeing a Peace Officer</i>	1	12	12	12	13	15	17

¹ Presumptive commitment to state imprisonment. First-degree murder has a mandatory life sentence and is excluded from the Guidelines under Minn. Stat. § 60B.015. See section 2.E. for policies regarding those sentences controlled by law.
² 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 may qualify for a presumptive commitment to state prison. See sections 2.C and 2.E.
³ Minn. Stat. § 24A.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.
⁴ 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.)

3

Severity Levels: the Sex Offender Grid (2006)

Vertical axis represents the severity level of the current offense. Felonies are currently ranked from A-I. Offenses listed on the Grid are examples of common offenses at that severity level.

Ranking policies will be the same for these offenses as those appearing on the Standard Sentencing Grid.

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 or more	
<i>Criminal Sexual Conduct (CSC) 1st Degree</i>	A	144 142 ¹ -177	156 144 ¹ -187	168 142 ¹ -201	180 171-214	234 199-269	306 261-300 267-302 ²
<i>CSC 2nd Degree-1st(D)(1)(a) (e.g., contact & force with bodily harm)</i>	B	90	110	130	150	195	255
<i>CSC 2nd Degree-1st(D)(1)(b) (e.g., coercion & coercion/occupation)</i>	B	90	110	130	150	195	255
<i>CSC 3rd Degree-1st(D)(1)(a) (e.g., penetration & coercion/occupation)</i>	C	48	62	76	90	117	153
<i>CSC 3rd Degree-1st(D)(1)(b) (e.g., penetration & coercion/occupation)</i>	C	41-57	53-74	65-91	77-108	100-140	131-183
<i>CSC 4th Degree-1st(D)(1)(a) (e.g., contact & coercion/occupation)</i>	D	36	48	60	70	91	119
<i>CSC 4th Degree-1st(D)(1)(b) (e.g., contact & coercion/occupation)</i>	D	36	48	60	70	91	119
<i>CSC 5th Degree-1st(D)(1)(a) (e.g., contact & coercion/occupation)</i>	E	24	36	48	60	78	102
<i>CSC 5th Degree-1st(D)(1)(b) (e.g., contact & coercion/occupation)</i>	E	24	36	48	60	78	102
<i>CSC 6th Degree-1st(D)(1)(a) (e.g., contact & coercion/occupation)</i>	F	18	27	36	45	59	77
<i>CSC 6th Degree-1st(D)(1)(b) (e.g., contact & coercion/occupation)</i>	F	18	27	36	45	59	77
<i>CSC 3rd Degree-1st(D) with 2(D) Possession of Child Pornography Solicit Child for Sexual Conduct</i>	G	15	20	25	30	39	51
<i>CSC 3rd Degree-2nd (nonconsensual penetration)</i>	H	12	14	16	18	24	34
<i>Failure to Register as a Predatory Offender</i>	I	12 ¹	14 ¹	16 ¹	18 ¹	24 ¹	34 ¹

¹ Presumptive commitment to state imprisonment. See offenses under Minn. Stat. § 60B.345, 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.
² 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 may qualify for a mandatory life sentence under Minn. Stat. § 60B.015, subd. 4. See sections 2.C and 2.E.
³ See Trafficking in not subject to a 144- or 80-month minimum statutory presumptive sentence on 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.
⁴ Minn. Stat. § 24A.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 controlled by the statutory maximum at criminal history scores above 4.

4

Severity Levels: the Drug Offender Grid (2016)

Vertical axis represents the severity level of the current offense. Felonies are currently ranked from D1-D9. Offenses listed on the Grid are examples of common offenses at that severity level.

Ranking policies will be the same for these offenses as those appearing on the Standard Sentencing Grid.

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
<i>Aggravated Controlled Substance Crime, 1st Degree Manufacture of Any Amm. Meth</i>	D9	86-103	98-117	110-132	132-146	134-160	146-158 125*-175
<i>Controlled Substance Crime, 1st Degree</i>	D8	65-78	75-90	85-102	95-114	105-126	115-125 98*-138 107*-150
<i>Controlled Substance Crime, 2nd Degree</i>	D7	48-58	58-68	68-78	78-88	88-98	98-108 84-117 92-129
<i>Controlled Substance Crime, 3rd Degree Failure to Affix Stamp</i>	D6	21-27	33-39	39-46	45-51	51-57	57-68 44-61 49-68
<i>Possess Substances with Intent to Manufacture Meth</i>	D5	18-23	28-33	33-38	38-43	43-48	48-57 29-39 33-45 37-51 41-57
<i>Controlled Substance Crime, 4th Degree</i>	D4	12-15	18-21	21-24	24-27	27-30	30-36 23-32 26-36
<i>Meth Crimes Involving Children and Vulnerable Adults</i>	D3	12-13	15-17	17-19	19-21	21-23	23-27 18-25 20-27
<i>Controlled Substance Crime, 5th Degree</i>	D2	12-12	13-15	15-17	17-19	19-21	21-25 18-25
<i>Sale of Simulated Controlled Substance</i>	D1	12-12	12-13	13-15	15-17	17-19	19-22 17-22

- 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.

5

Criminal History Calculation: The Standard Grid and the Drug Grid

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
<i>Murder, 2nd Degree (Intentional, Drive-By Shootings)</i>	11	306-326	326-366	366-406	406-466	466-526	526-606
<i>Murder, 2nd Degree (Unintentional)</i>	10	150-165	165-180	180-210	210-240	240-280	280-330
<i>Murder, 3rd Degree (Deprived Mind)</i>	9	86-98	98-110	110-122	122-134	134-146	146-158
<i>Murder, 3rd Degree (Drugs Assault, 1st Degree (Great Bodily Harm))</i>	8	48-58	58-68	68-78	78-88	88-98	98-108
<i>Agg. Robbery, 1st Degree Burglary, 1st Degree w/ Weapon or Assault</i>	7	36-42	42-48	48-54	54-60	60-66	66-72
<i>Felony DWI Financial Exploitation of a Vulnerable Adult</i>	6	21-27	27-33	33-39	39-45	45-51	51-57
<i>Assault, 2nd Degree Burglary, 1st Degree (Occupied Dwelling)</i>	5	18-23	23-28	28-33	33-38	38-43	43-48
<i>Residential Burglary Simple Robbery</i>	4	12-15	15-18	18-21	21-24	24-27	27-30
<i>Nonresidential Burglary</i>	3	12-13	13-15	15-17	17-19	19-21	21-23
<i>Theft Crimes (\$5,000 or less) Check Forgery (\$251-\$2,500)</i>	2	12-12	12-13	13-15	15-17	17-19	19-21
<i>Assault, 4th Degree Possess a Peace Officer</i>	1	12-12	12-13	13-15	15-17	17-19	19-22

- 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.

* Minn. Stat. § 60A.02 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 1 offenses other than Felony DWI, the standard range of 20% higher than the fixed duration applies at CHS 6 or more. (Minn. Stat. § 60A.02.)

The horizontal axis represents the offenders total criminal history score. Policies are found in sections 2.B.1 thru 2.B.7.

Criminal history is comprised of 4 elements:

- A custody status point value is assigned if the defendant is under eligible supervision when the current offense is committed.
- Points are assigned for offenses which received an imposed sentence, or a Stay of Imposition, prior to sentencing on the current offense for:
 - Felony level offenses
 - Misdemeanor and Gross Misdemeanor offenses
 - Juvenile offenses
 - Non-MN offenses which meet the criminal history policies

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
<i>Aggravated Controlled Substance Crime, 1st Degree Manufacture of Any Amm. Meth</i>	D9	86-103	98-117	110-132	132-146	134-160	146-158 125*-175
<i>Controlled Substance Crime, 1st Degree</i>	D8	65-78	75-90	85-102	95-114	105-126	115-125 98*-138 107*-150
<i>Controlled Substance Crime, 2nd Degree</i>	D7	48-58	58-68	68-78	78-88	88-98	98-108 84-117 92-129
<i>Controlled Substance Crime, 3rd Degree Failure to Affix Stamp</i>	D6	21-27	33-39	39-46	45-51	51-57	57-68 44-61 49-68
<i>Possess Substances with Intent to Manufacture Meth</i>	D5	18-23	28-33	33-38	38-43	43-48	48-57 29-39 33-45 37-51 41-57
<i>Controlled Substance Crime, 4th Degree</i>	D4	12-15	18-21	21-24	24-27	27-30	30-36 23-32 26-36
<i>Meth Crimes Involving Children and Vulnerable Adults</i>	D3	12-13	15-17	17-19	19-21	21-23	23-27 18-25 20-27
<i>Controlled Substance Crime, 5th Degree</i>	D2	12-12	13-15	15-17	17-19	19-21	21-25 18-25
<i>Sale of Simulated Controlled Substance</i>	D1	12-12	12-13	13-15	15-17	17-19	19-22 17-22

* Lower range may not apply. See section 2.C.3.(7) and Minn. Stat. § 60A.02, subdivisions (3) & (8).

- 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.

6

Criminal History Calculation: the Sex Offender Grid

The horizontal axis represents the offenders total criminal history score. Policies are found in sections 2.B.1 thru 2.B.7. Criminal history is comprised of 4 elements:

- A custody point value is assigned if the defendant is under eligible supervision when the current offense is committed.
 - If under supervision for a prior offense from the Sex Offender Grid, a second point is assigned.
- Points are assigned for offenses which received an imposed sentence or a Stay of Imposition prior to sentencing on the current offense for:
 - Felony level offenses – higher weight for prior sex offenses
 - Misdemeanor and Gross Misdemeanor offenses
 - Juvenile offenses
 - Non-MN offenses which meet the criminal history policies.

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
<i>Criminal Sexual Conduct (CSC) 1st Degree</i>	A 144 144 ¹ -172	155 144 ¹ -181	168 144 ¹ -201	180 144 ¹ -216	234 166-288	306 243-360	360 306-426
<i>CSC 2nd Degree-1st(b)(1)(ii)(I) Intox(Alc)(Dr)(G) (e.g., contact & force with bodily harm)</i>	B 90 90 ¹ -108	110 94-132	130 111-156	150 128-180	195 166-234	255 217-306	300 255-360
<i>CSC 3rd Degree-1st(b)(1)(ii)(I) Intox(Alc)(Dr)(G) (e.g., penetration & coercion/occupation)</i>	C 48 41-57	62 53-74	76 65-91	90 77-108	117 100-140	153 131-183	180 153-216
<i>CSC 2nd Degree-1st(b)(1)(i) (age)</i> <i>CSC 3rd Degree-1st(b)(1)(i) or 1st(b) with 2(1) (age)</i>	D 36 36	48 48	60 51-72	70 60-84	91 78-109	119 102-142	144 119-168
<i>CSC 4th Degree-1st(b)(1)(ii)(I) Intox(Alc)(Dr)(G) (e.g., contact & coercion/occupation)</i>	E 24 24	36 36	48 48	60 51-72	70 67-93	87 87-120	102 102-120
<i>CSC 4th Degree-1st(b)(1)(i) (age)</i> <i>CSC 5th Degree-3(b) (subsequent)</i>	F 18 18	27 27	36 36	45 39-54	59 51-70	66 66-92	84 77-100
<i>CSC 3rd Degree-1st(b) with 2(2) Possession of Child Pornography Solicit Child for Sexual Conduct</i>	G 15 15	20 20	25 25	30 30	39 34-46	51 44-60	60 51-69
<i>CSC 5th Degree-3(a) (nonconsensual penetration)</i>	H 12 12	14 14	16 16	18 18	24 24	24 ¹ 24-24	24 ¹ 24
<i>Failure to Register as a Predatory Offender</i>	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

¹ 12¹ - One year and one day mandatory minimum under Minn. Stat. § 243.166, subd. 5(b).
 Presumptive commitment to state imprisonment. See offenses under Minn. Stat. § 60B.055, 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 184 days of confinement and other non-jail sentences can be imposed as conditions of probation. However, certain offenses in the shaded area of the Grid may qualify for a mandatory life sentence under Minn. Stat. § 60B.055, 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 Score 0, 1, & 2, the ranges are 123-172, 153-181, & 143-201, respectively. For Severity Level B, Criminal History Score 0, the range is 71-100.
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.

7

Finding the Presumptive Sentence: all sentencing Grids

Step 1: Along the vertical axis, find the severity level of the current offense, found in section 5.A or 5.B.

Step 2: Along the horizontal axis, find the offender's total criminal history score using the policies outlined in sections 2.B.1 thru 2.B.7.

Step 3: Where the two meet is the presumptive Guidelines Sentence.

Example:

The current offense is an Burglary of an Unoccupied Dwelling at severity level 5.

The total criminal history score for the defendant is a 4.

The Presumptive Sentence is a 38 month commit, with a range of 33-45.

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
<i>Murder, 2nd Degree (Intentional; Drive-By Shootings)</i>	11 306 261-367	326 278-391	346 295-415	366 312-439	426 329-463	426 346-480 ¹	426 363-480 ¹
<i>Murder, 2nd Degree (Involuntary)</i> <i>Murder, 3rd Degree (Deproved Mind)</i>	10 150 128-180	165 141-198	180 153-216	195 166-234	210 179-252	225 192-270	240 204-288
<i>Murder, 3rd Degree (Drugs)</i> <i>Assault, 1st Degree (Great Bodily Harm)</i>	9 86 74-103	98 84-117	110 94-132	122 104-146	134 114-160	146 125-175	158 135-189
<i>Agg. Robbery, 1st Degree</i> <i>Burglary, 1st Degree (w/ Weapon or Assault)</i>	8 48 41-57	58 50-69	68 58-81	78 67-93	88 75-105	98 84-117	108 92-129
<i>Felony DWI</i> <i>Financial Exploitation of a Vulnerable Adult</i>	7 36 36	42 42	48 48	54 46-64	60 51-72	66 57-79	72 62-84 ^{1,2}
<i>Assault, 2nd Degree</i> <i>Burglary, 1st Degree (Occupied Dwelling)</i>	6 21 21	27 27	33 33	39 34-45	45 33-45	51 44-61	57 49-68
<i>Residential Burglary</i> <i>Simple Robbery</i>	5 18 18	23 23	28 28	33 29-38	38 33-45	43 37-51	48 41-57
<i>Nonresidential Burglary</i>	4 12 12	15 15	18 18	21 21-28	24 23-32	27 26-36	30 26-36
<i>Theft Crimes (Over \$5,000)</i>	3 12 12	13 13	15 15	17 17	19 17-22	21 18-25	23 20-27
<i>Theft Crimes (\$5,000 or less)</i> <i>Check Fraud (\$251-\$2,500)</i>	2 12 12	12 12	13 13	15 15	17 17	19 19	21 18-25
<i>Assault, 4th Degree</i> <i>Fleeing a Peace Officer</i>	1 12 12	12 12	12 12	13 13	15 15	17 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. § 60B.055. 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 sentences 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.)

8

Policies that may affect the presumptive: Mandatory and Presumptive Sentences – 2.C and 2.E

- Policies under 2.C will affect the presumptive disposition of the sentence – a stayed sentence will become a prison commit.
- Policies under 2.E will affect either the presumptive disposition, the presumptive duration due to statutory mandatory minimum, or both.
- Policy 2.C example:
 - A felony DWI with a prior felony DWI will be a presumptive prison term for the Grid time under policy 2.C.3.d.
- Policy 2.E example:
 - Assault 2nd degree with a firearm carries a mandatory prison term of 36 months. The policy in 2.E.2.b indicates that the duration imposed should be either the mandatory minimum duration or 36 months or the Grid time, whichever is longer.

SEVERITY LEVEL OF CONVICTION OFFENSE (Example offenses listed in italics)	CRIMINAL HISTORY SCORE				
	0	1	2	3	4
<i>Murder, 2nd Degree (Intentional; Drive-By-Shootings)</i>	11 306 261-367	326 278-391	346 295-415	366 312-439	386 329-463
<i>Murder, 2nd Degree (Unintentional)</i> <i>Murder, 3rd Degree (Depraved Mind)</i>	10 150 128-180	165 141-198	180 153-216	195 166-234	210 179-252
<i>Murder, 3rd Degree (Controlled Substances)</i> <i>Assault, 1st Degree</i>	9 86 74-103	98 74-112	110 84-132	122 104-146	134 114-160
<i>Agg. Robbery, 1st Degree</i> <i>Burglary, 1st Degree (w/ Weapon or Assault)</i>	8 48 41-57	58 41-57	68 58-81	78 67-93	88 75-105
<i>Felony DWI</i> <i>Financial Exploitation of a Vulnerable Adult</i>	7 36 34-46	42 34-46	48 34-46	54 46-64	60 51-72
<i>Assault, 2nd Degree</i> <i>Burglary, 1st Degree (Occupied Dwelling)</i>	6 21 21-28	27 21-28	33 21-28	39 34-46	45 39-54

A felony DWI with a prior felony DWI will be a presumptive commit for the Grid time under 2.C.3.d, regardless of where the sentence appears on the Grid.

An Assault 2nd carries a statutory mandatory *minimum* prison term of either 12 months/1 day or 36 months depending on the weapon.

mn.gov/sentencing-guidelines

9

9

Policies that may affect the presumptive: Sentence Modifiers – 2.G

- Policies under 2.G will affect either the presumptive disposition or duration of the sentence, either decreasing or increasing that duration or making a stayed sentence a prison commit.
- A common sentence decreasing modifier is attempt under Minn. Stat. § 609.17.
- A common sentence increasing modifier is for the Serve Violent Offense modifier which will add 12, 18, or 24.
- Policy 2.G examples:
 - An attempted Burglary of an Unoccupied Dwelling would reduce the sentence by half, making the duration 19 months (range 16.5-22.5).

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. Offenses 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 or more
<i>Murder, 2nd Degree (Intentional; Drive-By-Shootings)</i>	11 306 261-367	326 278-391	346 295-415	366 312-439	386 329-463	406 363-480 ¹
<i>Murder, 2nd Degree (Unintentional)</i> <i>Murder, 3rd Degree (Depraved Mind)</i>	10 150 128-180	165 141-198	180 153-216	195 166-234	210 179-252	240 204-288
<i>Murder, 3rd Degree (Drug)</i> <i>Assault, 1st Degree (Great Bodily Harm)</i>	9 86 74-103	98 74-112	110 84-132	122 104-146	134 114-160	146 125-175
<i>Agg. Robbery, 1st Degree</i> <i>Burglary, 1st Degree (w/ Weapon or Assault)</i>	8 48 41-57	58 41-57	68 58-81	78 67-93	88 75-105	108 84-117
<i>Felony DWI</i> <i>Financial Exploitation of a Vulnerable Adult</i>	7 36 34-46	42 34-46	48 34-46	54 46-64	60 51-72	72 62-84 ¹
<i>Assault, 2nd Degree</i> <i>Burglary, 1st Degree (Occupied Dwelling)</i>	6 21 21-28	27 21-28	33 21-28	39 34-46	45 39-54	57 49-68
<i>Residential Burglary</i> <i>Simple Robbery</i>	5 15 15-22	23 15-22	28 15-22	33 29-38	38 33-45	43 37-51
<i>Nonresidential Burglary</i>	4 12 12-18	15 12-18	18 12-18	21 17-22	27 23-32	30 26-36
<i>Theft Crimes (Over \$5,000)</i>	3 12 12-18	13 12-18	15 12-18	17 17-22	19 18-25	23 20-27
<i>Theft Crimes (\$5,000 or less)</i> <i>Check Forgery (\$251-\$2,500)</i>	2 12 12-18	12 12-18	13 12-18	15 15-17	17 17-22	19 18-25
<i>Assault, 4th Degree</i> <i>Fleeing a Peace Officer</i>	1 12 12-18	12 12-18	12 12-18	13 13-15	15 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 sentences 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. § 24A.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.)

mn.gov/sentencing-guidelines

10

10

Types of Departures – 2.D

DISPOSITIONAL DEPARTURE

Aggravated

Execution of a presumptive stayed sentence.

Mitigated

Staying a presumptive prison sentence.

DURATIONAL DEPARTURE

Aggravated

Imposing more time than is indicated on the Grid.

Mitigated

Imposing less time than is indicated on the Grid.

- When the court imposes a disposition or duration that is not reflected on the appropriate Grid, or is different from what is defined in statute, this constitutes a departure.
- Departures with respect to the presumptive disposition and duration are separate decisions. A judge may depart from the disposition without departing from the duration, and vice-versa; however a departure from *both* the presumptive disposition and duration are two separate departure decisions, each requiring substantial and compelling written reasons.
- Although there is a non-inclusive list of departure reasons in the Guidelines, it is up to the Appellate court to determine if a sentence is legal.

11

11

The Presumptive Sentence vs. a Dispositional Departure

Example:

The current offense is an Burglary of an Unoccupied Dwelling at severity level 5.

The total criminal history score for the defendant is a 4.

The Presumptive Sentence is a 38 month commit, with a range of 33-45.

After determining that substantial and compelling reasons exists, the court will be imposing the 38 months duration but will stay the term for five years.

The result is a Stay of Execution for 38 months, and is considered a mitigated dispositional departure.

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 <i>italics</i>)	CRIMINAL HISTORY SCORE						
	0	1	2	3	4	5 or more	
<i>Murder, 2nd Degree (Intentional; Drive-By Shootings)</i>	11	306 261-367	326 278-391	346 295-415	366 312-439	386 329-463	406 346-480 ¹
<i>Murder, 2nd Degree (Unintentional)</i>	10	150	165	180	195	210	225
<i>Murder, 3rd Degree (Deproved Mind)</i>	10	128-180	141-198	153-216	166-234	179-252	192-270
<i>Murder, 3rd Degree (Drugs)</i>	9	86	98	110	122	134	146
<i>Assault, 1st Degree (Great Bodily Harm)</i>	9	74-103	84-117	94-132	104-146	114-160	125-175
<i>Agg. Robbery, 1st Degree</i>	8	48	58	68	78	88	98
<i>Burglary, 1st Degree (w/ Weapon or Assault)</i>	8	41-57	50-69	58-81	67-93	75-105	84-117
<i>Felony DWI</i>	7	36	42	48	54	60	66
<i>Financial Exploitation of a Vulnerable Adult</i>	7	36	42	48	54	60	66
<i>Assault, 2nd Degree</i>	6	21	27	33	39	45	51
<i>Burglary, 1st Degree (Occupied Dwelling)</i>	6	21	27	33	39	45	51
<i>Residential Burglary</i>	5	15	23	28	34-45	41-61	49-68
<i>Simple Robbery</i>	5	15	23	28	34-45	41-61	49-68
<i>Nonresidential Burglary</i>	4	12	15	18	21	24	27
<i>Theft Crimes (Over \$5,000)</i>	3	12	13	15	17	19	21
<i>Theft Crimes (\$5,000 or Less; Check Forgery (\$251-\$2,500))</i>	2	12	12	13	15	17	19
<i>Assault, 4th Degree</i>	1	12	12	12	13	15	17
<i>Fleeing a Peace Officer</i>	1	12	12	12	13	15	17

Presumptive commitment to state imprisonment. First-degree murder has a mandatory life sentence and is excluded from the Guidelines under Minn. Stat. § 60A.05. 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. § 24A.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.)

12

12

The Presumptive Sentence vs. a Durational Departure

Example:

The current offense is an Assault 1st Degree at severity level 9.

The total criminal history score for the defendant is a 6.

The Presumptive Sentence is a 158 month commit, with a range of 135-189.

After determining that the offender will be sentenced as a “career offender” under 609.1095, subd. 4, the court imposes a 240 months prison sentence.

The result is a Commit to the Commissioner for 240 months, the statutory maximum, and is considered an aggravated durational departure.

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 <i>italics</i>)	CRIMINAL HISTORY SCORE						
	0	1	2	3	4	5	
<i>Murder, 2nd Degree (Intentional; Drive-By Shooting)</i>	11	306 261-307	325 279-329	346 295-412	366 314-429	386 329-463	406 346-480 ¹
<i>Murder, 2nd Degree (Unintentional)</i>		150	165	180	195	210	225
<i>Murder, 3rd Degree (Degraded Mind)</i>		135-180	141-198	153-216	166-234	179-252	192-270
<i>Murder, 3rd Degree (Drugs)</i>		98	98	110	122	134	146
<i>Assault, 1st Degree (Great Bodily Harm)</i>	9	74-103	84-117	94-132	104-140	114-160	125-175
<i>Agg. Robbery, 1st Degree</i>		48	58	68	78	88	98
<i>Burglary, 1st Degree (w/ Weapon or Assault)</i>		41-57	50-69	58-81	67-93	75-105	84-117
<i>Felony DWI</i>				34	60	66	72
<i>Financial Exploitation of a Vulnerable Adult</i>	7	36	42	48	54	60	66
<i>Atsufu, 2nd Degree</i>				39	45	51	57
<i>Burglary, 1st Degree (Occupied Dwelling)</i>	6	21	27	33	39	45	51
<i>Residential Burglary</i>				33	38	43	48
<i>Simple Robbery</i>	5	18	23	28	33	38	43
<i>Nonresidential Burglary</i>	4	12	15	18	21	24	27
<i>Theft Crimes (Over \$5,000)</i>	3	12	13	15	17	19	21
<i>Theft Crimes (\$5,000 or less)</i>				17-22	18-25	19	20-27
<i>Check Forgery (\$251-\$2,500)</i>	2	12	12	13	15	17	19
<i>Assault, 4th Degree</i>				17-22	18-25	19	20-27
<i>Fleeing a Peace Officer</i>	1	12	12	12	13	15	17

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. § 24A.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 50-86.)