



**MINNESOTA**

SENTENCING GUIDELINES  
COMMISSION

## Winter Series #3 – Avoiding the Sentencing Pitfalls of Unintended Departures

Winter Series – February 11, 2026

# Sentence Guidelines Policies Effective Date

## Guidelines used for the “current” offense

- Each year on August 1st, a Sentencing Guidelines manual is published for offenses *committed* on or after that date.
- Each Sentencing Guidelines manual remains in effect through July 31st of the following year.
- That means that *technically*, the idea of “the current Guidelines” is not based on the calendar date; rather, it is based on the date the current conviction offense occurred.
- These are the policies that will be used to find everything related to the current offense including the severity level, modifiers or mandatory minimums, and the Grid used to find the presumptive sentence.

## Guidelines used for the “current” offense

- The changes made to criminal history calculation policies that were enacted in 2019 will now apply to all offenses regardless of their offense date.
- If the current offense occurred on or before 7/31/2019, used the 2019 Sentencing Guidelines manual.
- If the offense occurred on or after 8/1/2019, use the manual in effect based on the date the offense occurred.
  - 05/01/1980-07/31/2020 – the 2019 manual
  - 08/01/2020-09/14/2021 – the 2020 manual
  - 09/15/2021-07/31/2022 – the 2021 manual
  - 08/01/2022-07/31/2023 – the 2022 manual
  - 08/01/2023-07/31/2024 – the 2023 manual
  - 08/01/2024-07/31/2025 – the 2024 manual
  - 08/01/2025-07/31/2025 – the 2025 manual

**Website: mn.gov/sentencing-guidelines**

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- The Felony Sentencing Process
- How to Read the Grids
- Departing from the Presumptive Sentence
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## Previous Years Guidelines and Commentary

The presumptive sentence for any offender convicted of a felony committed on or after May 1, 1980, is determined by the Sentencing Guidelines in effect on the date of the conviction offense. If multiple offenses are an element of the conviction offense, the date of the conviction offense must be determined by the fact finder. If offenses have been aggregated, the date of the earliest offense should be used as the date of the conviction offense. The majority of previous Guidelines have an effective date starting August 1st, and are in effect until the next publication. The effective date can be found on the cover page of every previous Guidelines.



### 2024 Sentencing Guidelines

The Minnesota Sentencing Guidelines are a set of rules and principles used to determine sentences for felony offenses in Minnesota. They aim to promote fairness and consistency in sentencing by considering both the seriousness of the offense and the offender's criminal history. The guidelines are advisory, meaning judges can deviate from them, but must explain their reasoning for doing so.

Sort

**Newest** Oldest



### 2024 Amendments

MSGC periodically amends the sentencing guidelines to ensure they remain relevant, fair, and effective in addressing criminal behavior and promoting public safety. These modifications can involve Legislative amendments to crime laws affecting the guidelines, technical amendments, and changes to the presumptive sentence for various crimes. The MSGC's overarching goal is to reduce sentencing disparities, ensure sanctions are proportional to the offense and offender's history, and maintain public safety.

### Archives

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Select the year needed from the list and the Guidelines, Amendments, and Grids in effect will populate the page.

What constitutes a departure from the Guidelines?

# The Sentencing Grids

## 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	386 329-463	406 346-480 <sup>1</sup>	426 363-480 <sup>1</sup>
<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	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	42	48	54 46-64	60 51-72	66 57-79	72 62-84 <sup>1,2</sup>
<i>Assault, 2nd Degree</i> <i>Burglary, 1st Degree (Occupied Dwelling)</i>	6	21	27	33	39 34-46	45 39-54	51 44-61	57 49-68
<i>Residential Burglary</i> <i>Simple Robbery</i>	5	18	23	28	33 29-39	38 33-45	43 37-51	48 41-57
<i>Nonresidential Burglary</i>	4	12	15	18	21 21-28	27 23-32	30 26-36	
<i>Theft Crimes (Over \$5,000)</i>	3	12	13	15	17 17-22	19 18-25	21 20-27	23 20-27
<i>Theft Crimes (\$5,000 or less)</i> <i>Check Forgery (\$251-\$2,500)</i>	2	12	12	13	15	17	19	21 18-25
<i>Assault, 4th Degree</i> <i>Fleeing a Peace Officer</i>	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.

<sup>1</sup> 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.

<sup>2</sup> 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.)

## 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 <sup>2</sup> -172	156 144 <sup>2</sup> -187	168 144 <sup>2</sup> -201	180 153-216	234 199-280	306 261-360	360 306-360 <sup>3</sup>
<i>CSC 2nd Degree-1(a)(b)(c)(d)(e) 1a(a)(b)(c)(d)(h)(i) (e.g., contact &amp; force with bodily harm)</i>	B	90 90 <sup>2</sup> -108	110 94-132	130 111-156	150 128-180	195 166-234	255 217-306	300 255-360
<i>CSC 3rd Degree-1(a)(b)(c)(d) 1a(c)(d)(g)(h)(i) (e.g., penetration &amp; 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-1a(e)(f)(g) (age)</i> <i>CSC 3rd Degree-1a(a)(e)(f) or 1a(b) with 2(1) (age)</i>	D	36	48	60 51-72	70 60-84	91 78-109	119 102-142	140 119-168
<i>CSC 4th Degree-1(a)(b)(c)(d) 1a(c)(d)(g)(h)(i) (e.g., contact &amp; coercion/occupation)</i>	E	24	36	48	60 51-72	78 67-93	102 87-120	120 102-120 <sup>3</sup>
<i>CSC 4th Degree-1a(a)(b)(e)(f) (age)</i> <i>CSC 5th Degree-3(b) (subsequent)</i>	F	18	27	36	45 39-54	59 51-70	77 66-92	84 72-100
<i>CSC 3rd Degree-1a(b) with 2(2) Possession of Child Sexual Abuse Material</i>	G	15	20	25	30	39 34-46	51 44-60	60 51-60 <sup>3</sup>
<i>CSC 5th Degree-3(a) (nonconsensual penetration)</i>	H	12	14	16	18	24	24 <sup>3</sup> 24-24	24 <sup>3</sup> 24-24
<i>Failure to Register as a Predatory Offender</i>	I	12 <sup>1</sup> 12 <sup>1</sup> -14	14 12 <sup>1</sup> -16	16 14-19	18 16-21	24 21-28	30 26-36	36 31-43

<sup>1</sup> 12<sup>1</sup>=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 offenses 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.

<sup>2</sup> 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.)

<sup>3</sup> 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.

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

#### 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	386 329-463	406 346-480 <sup>1</sup>	426 363-480 <sup>1</sup>
<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	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	42	48	54 46-64	60 51-72	66 57-79	72 62-84 <sup>1,2</sup>
<i>Assault, 2nd Degree</i> <i>Burglary, 1st Degree (Occupied Dwelling)</i>	6	21	27	33	39 34-46	45 39-54	51 44-61	57 49-68
<i>Residential Burglary</i> <i>Simple Robbery</i>	5	18	23	28	33 29-39	38 33-45	43 37-51	48 41-57
<i>Nonresidential Burglary</i>	4	12	15	18	21	24 21-28	27 23-32	30 26-36
<i>Theft Crimes (Over \$5,000)</i>	3	12	13	15	17	19 17-22	21 18-25	23 20-27
<i>Theft Crimes (\$5,000 or less)</i> <i>Check Forgery (\$251-\$2,500)</i>	2	12	12	13	15	17	19	21 18-25
<i>Assault, 4th Degree</i> <i>Fleeing a Peace Officer</i>	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.

<sup>1</sup> 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.

<sup>2</sup> 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.)

# Types of Departures: Dispositional

The **disposition** of a felony sentence means imposing a duration that is either stayed (shaded cells) or executed to prison (non-shaded cells).

A **Dispositional Departure** means imposing a sentence that is the opposite of what is indicated on the appropriate cell of the applicable Grid.


A **Mitigated Dispositional Departure** means imposing a stayed sentence when the Grid calls for a commit.


An **Aggravated Dispositional Departure** occurs when the Grid shows a stayed sentence, but the court imposes a prison term.

#### 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	386 329-463	406 346-480 <sup>1</sup>	426 363-480 <sup>1</sup>
<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	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	42	48	54 46-64	60 51-72	66 57-79	72 62-84 <sup>1,2</sup>
<i>Assault, 2nd Degree</i> <i>Burglary, 1st Degree (Occupied Dwelling)</i>	6	21	27	33	39 34-46	45 39-54	51 44-61	57 49-68
<i>Residential Burglary</i> <i>Simple Robbery</i>	5	18	23	28	33 29-39	38 33-45	43 37-51	48 41-57
<i>Nonresidential Burglary</i>	4	12	15	18	21	24 21-28	27 23-32	30 26-36
<i>Theft Crimes (Over \$5,000)</i>	3	12	13	15	17	19 17-22	21 18-25	23 20-27
<i>Theft Crimes (\$5,000 or less)</i> <i>Check Forgery (\$251-\$2,500)</i>	2	12	12	13	15	17	19	21 18-25
<i>Assault, 4th Degree</i> <i>Fleeing a Peace Officer</i>	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.

<sup>1</sup> 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.

<sup>2</sup> 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.)

# Types of Departures: Durational

The **duration** of a felony sentence is displayed on each cell of the Grid indicating what duration the court should impose in months. Cells in the commit, or non-shaded, portion of the Grid include ranges that allow the court to sentence 15% below 20% above the presumptive sentence, often referred to as the “middle of the box.”

A **Durational Departure** means imposing a sentence that is greater or less than the duration indicated on the appropriate cell of the applicable Grid.

A **Mitigated Durational Departure** is a sentence that is less than what appears on the Grid, including a duration less than what the lower range displays on the Grid.


An **Aggravated Durational Departure** occurs when the imposed sentence is greater than what is displayed on the Grid, including a sentence that is longer than what the upper duration displays on the Grid.


# Types of Departures: Others

## 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	386 329-463	406 346-480 <sup>1</sup>	426 363-480 <sup>1</sup>
<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	225 192-270	240 204-288
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<i>Nonresidential Burglary</i>	4	12	15	18	21	24 21-28	27 23-32	30 26-36
<i>Theft Crimes (Over \$5,000)</i>	3	12	13	15	17	19 17-22	21 18-25	23 20-27
<i>Theft Crimes (\$5,000 or less)</i> <i>Check Forgery (\$251-\$2,500)</i>	2	12	12	13	15	17	19	21 18-25
<i>Assault, 4th Degree</i> <i>Fleeing a Peace Officer</i>	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.

<sup>1</sup> 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.

<sup>2</sup> 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.)

There are other departures that may not fit neatly into the dispositional or durational departure category.

- Sentencing a felony as a M/GM:** this will be a mitigated durational departure if the presumptive sentence falls in the shaded portion of the Grid. If the presumptive sentence is found in the non-shaded portion, a M/GM sentence will result in both a mitigated durational departure and possibly a mitigated dispositional departure.
- Sentencing a felony to a Stay of Imposition:** when the imposition is stayed, no sentence duration is imposed; therefore, if the presumptive sentence is found in the shaded cells, the sentence would not be a departure. If, however, the sentence falls in the non-shaded portion of the Grid, the sentence will be a mitigated dispositional departure.
- Defendant demands execution of their sentence:** when the sentence is executed pursuant to the offender's right to demand execution, this is not a departure of any kind. The court must still report this to the Guidelines to explain the disposition.
- Unintended departure:** the court sentences the defendant from a document other than an official sentencing worksheet. When the final worksheet is completed, the sentence is determined to be a departure, and the court will need to explain the reasons.

# Pitfall #1: Incorrect application of a sentencing policy

## Mandatory Minimums and Presumptive Sentences

- Offenses which carry statutory mandatory minimum sentences, or a presumptive sentences from the Guidelines, derive their sentence from either that duration or the grid time, whichever is longer.
- Examples would be weapon offenses and subsequent offenses
- These policies are found in 2.C and 2.E.

## Sentencing Modifiers

- Modifiers that reduce a sentence, like attempt or conspiracy, cannot go below the statutory duration for a felony.
- Modifiers that increase the sentence, like the Severe Violent Offense modifier, cannot exceed the statutory maximum
- The sentence will be either the mandatory minimum, or the grid time after the application of the modifier, whichever is longer.
- These policies are found in 2.G.

## Enhanced Offenses

- These are misd level offenses that are made felonies by the required number of priors found in statute.
- The charging document includes the offenses used to enhance, but often more than are necessary are listed.
- Because felonies used to enhance *are* included in criminal history, misd. and gross misd. priors *are not*, it's important to inform probation on what the final offenses were determined to be the enhancing offenses.

# Pitfall #2: Using non-MN offenses in criminal history without verification


- “Minnesota's Sentencing Guidelines provide uniform standards for the inclusion and weighting of criminal history information that are intended to increase the fairness and equity in determining a defendant's criminal-history score.” *State v. Washington, 2017*
- Although the court makes the final decision as to if and how a non-MN offense is included in criminal history, the state bears the burden of “proving by a fair preponderance of the evidence, that a prior conviction qualifies for inclusion in a defendant's criminal-history score.” *State v. Abdullahi, 2023*
- More recently, *State v. Johnson, 2026*, “...the Minnesota Court of Appeals reversed a sentence, ruling the state failed to properly establish facts for including out-of-state convictions in a criminal-history score. The case *emphasized that relying solely on a Pre-Sentence Investigation (PSI) report for out-of-state convictions is insufficient.*” [emphasis added]
- Although it is believed to fall on probation agents to make the necessary decision for equating a non-MN offense, attorneys will need to work with probation to aid in determining how the Guidelines are applied to a non-MN offense (since probation agents are not tasked with interpreting statute to find the MN equivalent offense).

# Pitfall #3: Sentencing without a worksheet

When a sentencing worksheet indicates that it has been “Reviewed,” it means that MSGC has signed off on the worksheet as and the following has occurred:

1. The worksheet has been submitted to MSGC via the Electronic Worksheet System.
2. MSGC staff has reviewed all components of the worksheet *based on the included information* to determine if:
  - a. The correct severity level is assigned
  - b. All prior criminal history meets the policies in 2.B.1 thru 2.B.7
  - c. All information that requires clarification or modification has been requested.

<b><u>SENTENCING WORKSHEET</u></b>		
<b>Modified Date:</b>	11/15/2021	
<b>Reviewed Date:</b>	08/22/2022	
<b>Version:</b>	2 of 2	<b>Status:</b> REVIEWED
<hr/>		
	<b>County:</b>	<b>BECKER (3)</b>
<b>Male</b>	<b>Case #:</b>	<b>CR12346</b>
	<b>MM SID #:</b>	



# But what if a complete sentencing worksheet isn't helpful for the situation?

There are times when having a completed and reviewed sentencing worksheet may not be helpful. For example:

- The current case has multiple offenses that occurred on the same date and it's unclear what the order of events is or if some of the offenses are lesser includes.
- The current case may be a single course of conduct w/multiple victims, and again, it's unclear what the order of events is or if some of the offenses are lesser includes.
- The current case was a jury trial with multiple guilty verdicts, and it is unclear what will be sentenced.

# The Criminal History Summary is excellent for these situations,

- The Criminal History Summary (CHS) provides only a criminal history score instead of providing, as the complete worksheet does, the conviction offense, the criminal history, and the presumptive sentence.
- Since the defendant's starting criminal history score provides the appropriate starting point on the applicable grid to work from, this document provides that information.
- It provides a significant amount of room to include important notes – up to 8,000 characters with 1,000 of those carrying over to the final sentencing worksheet.
- It also provides a disclaimer which contains important information for policies to consider when the final count(s) to be sentenced are determined.

This Criminal History Summary has been created by probation as a courtesy for the court and has not been officially reviewed by MSGC's staff.

**CRIMINAL HISTORY SUMMARY**  
 Reviewed Date: Not Reviewed  
 Version: 1 of 1      Status: OPEN

Offender and Court Case Information					
Name:	Sample, John Quincy	County:	AITKIN (1)		
DOB:	12/02/1992	Gender:	Male	Case #:	CR2512345
Race/Ethnicity:	White/Unknown	MN SID #:			
Offense Date:	08/01/2025	PSI Investigator:	MSGC, (651)296-0144		

Custody Status Point	Juv Points	Misd/G.M. Points	Felony Points	Total Criminal History Points
0.5	0	1	4.5	5
Type: Probation <i>0.5 Custody Status Pt. not used to find presumptive sentence per 1/13/22 MSGC interim guidance.</i>				

Offenses Included in Criminal History Score					
Type	Offense Title	Sev	Units/Points	Disp Date	Exp Date
Juvenile	No Juvenile Priors				
Misd./G.M.	1. Domestic Assault		1 unit	08/01/2016	08/01/2016
	2. DWI		1 unit	08/01/2017	08/01/2017
	3. GM DWI		1 unit	08/01/2018	08/01/2018
	4. GM DANCO		1 unit	08/01/2019	08/01/2019
Felony	1. Threats of Violence	4	1.0 pt.	08/01/2020	08/01/2020
	2. 1st Degree Drug	D8	2.0 pts.	08/01/2021	08/01/2021
	3. Felony DWI	7	1.5 pts.	08/01/2022	08/01/2022

Comments
Defendant on custody for Stay of Adjudication for 5th Degree Controlled Substance, 01CR231234.
All non-MN priors will need to be determined as eligible by the sentencing court - 1st Degree Drug, severity level and points will need to be equated by MN Court. No drug or amount information available in the complaint.

**DISCLAIMER:**

This Criminal History Summary may not be accurate if:

- there are current multiple offenses (Minn. Sent. Guidelines Sec. 2.B.1.e)
- the current offense is a felony DWI or CVH/CVO (Minn. Sent. Guidelines Sec. 2.B.4)
- the current offense is an enhanced felony (Minn. Sent. Guidelines Sec. 2.B.6)
- the current offense is a criminal sexual conduct offense (Minn. Sent. Guidelines Sec. 2.B.1 and 2.B.2)

# and can help avoid unintended departures!

Conviction Offense			
Sent ord #:	1	Count #:	1
Offense Title:	Burglary - 3rd Degree - Enters w/out consent with intent to Steal/Commit Felony or Gross Misdemeanor		Severity Level 4
Offense Date:	10/05/2024		
Conviction Statute:	609.582.3(a)	Penalty Statute:	609.582.3(a)
Addl Statutes:			
Modifiers:			

Criminal History Score				
Custody Status Point	Juv Points	Misd/G.M. Points	Felony Points	Total Criminal History Points
0	0	0	5	5
Type:	None			

Offenses Included in Criminal History Score				
Type	Offense Title	Units/Pts	Disp Date	Exp Date
Juvenile	No Juvenile Priors			
Misd./G.M.	No Misdemeanor Priors			
Felony	1. Theft-Take/Drive Motor Vehicle-No Owner Consent	1.0 pt.	04/28/2016	10/10/2018
	2. Theft-Take/Use/Transfer Movable Prop-No Consent	0.5 pt.	05/25/2016	06/26/2018
	3. Drugs - 5th Degree - Possess Schedule 1,2,3,4 - Not Small Amount Marijuana	0.5 pt.	12/28/2016	10/11/2018
	4. Theft-Take/Use/Transfer Movable Prop-No Consent	0.5 pt.	02/17/2017	03/01/2019
	5. Drugs - 5th Degree - Possess Schedule 1,2,3,4 - Not Small Amount Marijuana - MN	0.5 pt.	06/13/2018	10/31/2019
	6. Check Forgery	0.5 pt.	06/13/2018	02/03/2022
	7. Theft-Take/Use/Transfer Movable Prop-No Consent	0.5 pt.	01/17/2019	09/20/2021
	8. Burglary-3rd Deg-Steal/Commit Felony or Gross Misd	1.0 pt.	01/17/2019	12/13/2021

Presumptive Disposition
Commit to Commissioner
Presumptive Duration
27 months
Lower Range: 23 months
Upper Range: 32 months
In the event of mitigated dispositional departure, the length of stay must not exceed 5 years.

Comments

Conviction Offense			
Sent ord #:	1	Count #:	2
Offense Title:	Drugs - 2nd Degree - Possess 25 grams or more cocaine or methamphetamine		Severity Level D7
Offense Date:	10/05/2024		
Conviction Statute:	152.022.2(a)(1)	Penalty Statute:	
Addl Statutes:			
Modifiers:			

Criminal History Score				
Custody Status Point	Juv Points	Misd/G.M. Points	Felony Points	Total Criminal History Points
0	0	0	5	5
Type:	None			

Offenses Included in Criminal History Score				
Type	Offense Title	Units/Pts	Disp Date	Exp Date
Juvenile	No Juvenile Priors			
Misd./G.M.	No Misdemeanor Priors			
Felony	1. Theft-Take/Drive Motor Vehicle-No Owner Consent	1.0 pt.	04/28/2016	10/10/2018
	2. Theft-Take/Use/Transfer Movable Prop-No Consent	0.5 pt.	05/25/2016	06/26/2018
	3. Drugs - 5th Degree - Possess Schedule 1,2,3,4 - Not Small Amount Marijuana	0.5 pt.	12/28/2016	10/11/2018
	4. Theft-Take/Use/Transfer Movable Prop-No Consent	0.5 pt.	02/17/2017	03/01/2019
	5. Drugs - 5th Degree - Possess Schedule 1,2,3,4 - Not Small Amount Marijuana - MN	0.5 pt.	06/13/2018	10/31/2019
	6. Check Forgery	0.5 pt.	06/13/2018	02/03/2022
	7. Theft-Take/Use/Transfer Movable Prop-No Consent	0.5 pt.	01/17/2019	09/20/2021
	8. Burglary-3rd Deg-Steal/Commit Felony or Gross Misd	1.0 pt.	01/17/2019	12/13/2021

Presumptive Disposition
Commit to Commissioner
Presumptive Duration
98 months
Lower Range: 84 months
Upper Range: 117 months
In the event of mitigated dispositional departure, the length of stay must not exceed 5 years.
The presumptive sentence was automatically calculated. There may be errors, especially if modifiers apply. Please ensure that the presumptive sentence is correct by applying the Sentencing Guidelines in effect on the date of offense.

Comments

*This has been a training presentation by the staff of the Minnesota Sentencing Guidelines Commission. Opinions expressed are not necessarily those of the Commission itself, and information presented is not necessarily authoritative.*

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

<https://mn.gov/sentencing-guidelines/guidelines/>

For assistance, please e-mail [sentencing.guidelines@state.mn.us](mailto:sentencing.guidelines@state.mn.us)