



MINNESOTA

SENTENCING GUIDELINES COMMISSION

May Lunch & Learn: Open Q & A on enhanced offenses



Presented by MSGC Staff



Enhanced offenses: Felony DWI – 2.B.6

- An enhanced felony offense is misd. level behavior that has been committed enough times to elevate, or enhance, the offense to a felony.
- It is up to the charging authority (the prosecutor) to determine what offenses are being used to enhance. This often leads to confusion, especially when all eligible priors are included in the complaint.
- Probation is not responsible for determine what is used to enhance. If it is unclear what specific offense were used, reach out to the prosecutor for clarification.
- Enhanced offenses fit into two felony categories: **DWI** and **non-DWI offenses**
- **Felony DWI**
 - A targeted misd., qualified gross misd., or a felony prior used to enhance the current offense **CAN BE USED TO ASSIGN CUSTODY STATUS**.
 - Targeted misd. and gross misd. priors used to enhance the offense **CANNOT BE USED TO ASSIGN M/GM UNITS ON THE FELONY THEY ARE ENHANCING**.
 - Prior felony DWIs or eligible felony CVO/CVH offenses used to enhance, including juvenile adjudication for felonies, **CAN BE** included in criminal history per the policies in 2.B.1 and 2.B.4.
 - When a prior eligible felony CVO/CVH is used to enhance, any prior M/GM DWIs the defendant has are eligible to be used at 2 units each.
 - Once there is a felony DWI in the defendant's history, all subsequent DWIs are automatically felonies; no enhancing is required. Because of this, the **M/GM used to enhance the first felony DWI are NOT ELIGIBLE** to be used as history.

To aid in MSGCs review of the worksheet, include a comment to explain what offenses were used to enhance. This is especially helpful when there are other same/similar offense in history.

Enhanced offenses: Non-DWI felonies – 2.B.6

- An enhanced felony offense is misd. level behavior that has been committed enough times to elevate, or enhance, the offense to a felony.
- It is up to the charging authority (the prosecutor) to determine what offenses are being used to enhance. This often leads to confusion, especially when all eligible priors are included in the complaint.
- Probation is not responsible for determine what is used to enhance. If it is unclear what specific offense were used, reach out to the prosecutor for clarification.
- Enhanced offenses fit into two felony categories: **DWI** and **non-DWI offenses**
- **Non-DWI Enhanced Offenses**
 - A targeted misd., qualified gross misd., or a felony prior used to enhance the current offense **CAN BE USED TO ASSIGN CUSTODY STATUS.**
 - Most non-DWI offenses must be enhanced every time (e.g., domestic assault and related offenses)
 - Targeted misd. and gross misd. priors used to enhance the offense **CANNOT BE USED TO ASSIGN M/GM UNITS ON THE FELONY THEY ARE ENHANCING.**
 - Prior felonies, including juvenile adjudication for felonies, **CAN BE** included in criminal history per the policies in 2.B.1 and 2.B.4.

To aid in MSGCs review of the worksheet, include a comment to explain what offenses were used to enhance. This is especially helpful when there are other same/similar offense in history.

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