MINNESOTA
SENTENCING GUIDELINES
COMMISSION

October Lunch & Learn: Pre-and Post-8/1/2026 Custody Status Policies – 2.B.2 and 2.C



Presented by MSGC Staff

October 15, 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.
- The policies in the manual remains in effect through July 31st of the following year.
- That means that "the current Guidelines" is not based on the manual in effect on a calendar date; rather, it is based on the date the current 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 criminal history on the current offense

- The modifications made to criminal history calculation policies that were enacted in 2019 will apply to all offenses committed prior to 8/1/2019; use the 2019 Sentencing Guidelines manual for the criminal history policies or EWS which is set to these policies.
- If the current offense occurred on/after 8/1/2026, or the court is applying the 2026 modifications to a pre-8/1/2026 offense, please reach out to MSGC for instructions on completing the worksheet until EWS is modified to calculate those.

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General Custody Status Policies (regardless of the offense date)

All current offense dates: clarifying when not to assign a custody point

Before we address how to assign custody, it's important to point out when to not assign custody (so there is no confusion of terms).

Do not assign custody under the following situations:

1. Pre-trail release or other release conditions when there was no guilty plea, guilty verdict, or conviction.
2. When the defendant is committed for treatment or a rule 20 exam.
3. When custody is for a non-targeted misd.
4. When custody is related to a juvenile adjudication of delinquency.
5. When custody is for a misd/gross misd DWI committed by a 16- or 17-year-old.
6. When custody is for a non-conviction disposition *other than a Stay of Adjudication with a guilty plea*.

Of Note: Even with the change for custody from a point to a durational modifier, these remain the situations where custody would not be assigned.

Criminal History: Custody Status types

- **Probation** – the new offense is committed while serving a probation term for a stayed disposition (Stay of Execution or Stay of Imposition).
  - **Stay of Adjudication Custody** – the new offense is committed while serving a probation term for a Stay of Adjudication, provided a guilty plea was entered.
- **Parole/Supervised Release** – the new offense is committed while under post-incarceration release for an executed sentence.
- **Conditional Release** – the new offense is committed while serving the extended supervision period for specific offenses such as Felony DWI or CSC offenses.
  - **Release Pending Sentencing** – the new offense is committed while on release following a guilty plea, guilty verdict, or conviction, for an eligible offense that is pending sentencing.
  - **Confined** – the new offense is committed while confined in jail pending sentencing following a guilty plea, guilty verdict, or conviction for an eligible offense, while serving conditional jail time for a stayed sentence, or while confined in jail or prison following an executed sentence.
- **EJJ Status** – the new offense is committed before the defendant turns 21 and is the offense was adjudicated under an EJJ conviction. If the EJJ is revoked, this status is not applicable.

Assigning Points to Offenses Committed Over Time

- When the new felony is committed over time (with a date range), such as:
  - (i) – when multiple offense are an element of the conviction offense; or
  - (ii) – when the conviction offense is for an aggregated dollar amount.
- And the defendant is placed on custody for an eligible, unrelated offense during the date range of the new felony, a custody status will be assigned to that offense.

1. The defendant commits a CSC1 under Minn. Stat. § 609.342, subd. 1(h)(iii) – multiple offenses committed over time – with an offense date of June of 2022 through September of 2026.
2. On April 5, 2024, the defendant is given a stay of execution and placed on probation for a misd. domestic assault.
3. Because the domestic assault probation started within the date range of the CSC1, a 0.5 custody point for probation would be assigned.

OR

1. An aggregated offense for Wrongfully Obtaining Public Assistance has a date range of June 2024 through September of 2026.
2. On April 5, 2025, the defendant is given a stay of execution and placed on probation for a felony check forgery over $5,000.
3. Because the check forgery's probation started within the date range of the WOPA, 1.0 custody points are assigned for probation.

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Pre-8/1/2026 Custody Status Policies

Pre-8/1/2026Criminal History: Custody – 2.B.2.a, 2.B.2.a(2)-(3)

- When the current offense occurs **following a guilty plea, guilty verdict, or conviction on an eligible prior**, custody will be assigned to the current offense as:
- **one-half point (0.5)** if the custody offense is:
  - a felony or Extended Jurisdiction Juvenile (EJJ) found at severity level 1, 2, D1, or D2; or
  - an eligible gross misd. or targeted misd.
- **one full point (1.0)** if the custody offense is:
  - a felony or EJJ found at severity level 3-12, D3-D9, or A-I

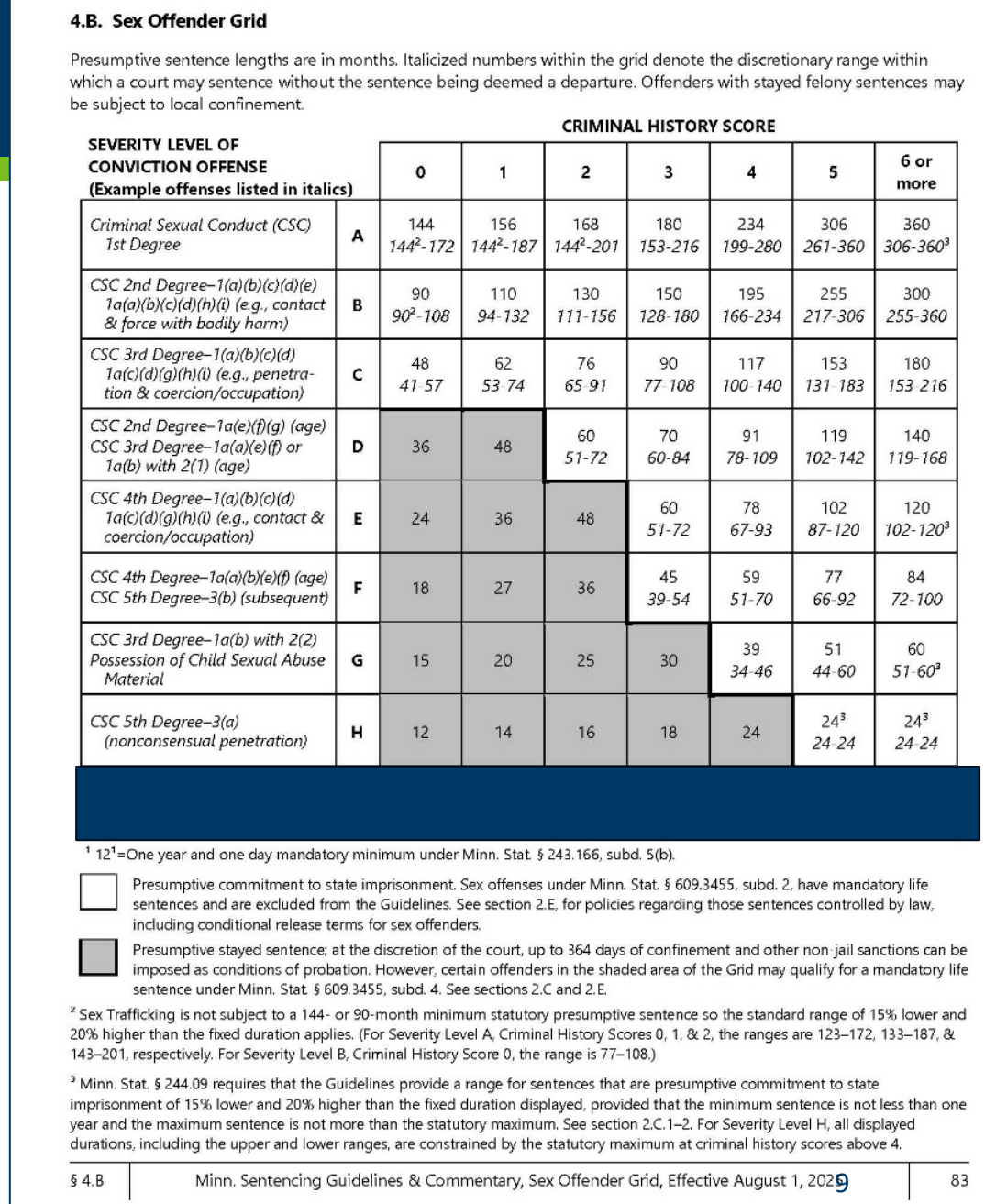
Although the defendant may be on custody for multiple priors, only one custody point value assigned.

Determining the eligibility of assigning an additional custody status point – 2.B.2.b

1. The current offense will be sentenced from the Sex Offender Grid ranked at severity level A – G or H (depending on whether the current offense date is on/after 9/15/2021)
   - If the current offense is Failure to Register, it doesn't qualify for the second point.
2. The offense the defendant is under custody for is also found on the Sex Offender Grid ranked at severity level A – G or H (depending on whether the current offense date is on/after 9/15/2021)
   - If custody is assigned because of a prior Failure to Register, it is not a qualifying prior for the second point.

TIP 1: Assign the custody point as you normally would, *then* consider whether the current offense qualifies for the second point.

Tip 1: the additional point does *not* depend on the *type* of custody but the *type* of offense, both the current *and* the custody offense prior.



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 Sexual Abuse Material	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*

[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.

§ 4.B | Minn. Sentencing Guidelines & Commentary, Sex Offender Grid, Effective August 1, 2021 | 83

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Additional Duration for the Custody Status Enhancement – 2.B.2.c

Custody Point + Juvenile + Misdemeanor + Felony Points = 7 or more

Criminal History Score Example

Custody Point	*Juv Points*	*Misd/GM Points*	*Felony Points*	**Total Criminal History**
.5 or 1.0	1	1	5	**7**

The additional 3 months would be added on as the total includes a value for a custody status. The sentence cannot go above the stat max which may be reflected on the Grid.

~~Custody Point~~ + Juvenile + Misdemeanor + Felony Points = 7 or more

Criminal History Score Example

Custody Point	*Juv Points*	*Misd/GM Points*	*Felony Points*	**Total Criminal History**
0	1	1	5	**7**

The additional 3 months would not be added on as the total does not include a value for a custody status.

Custody Status Point Waiver: Motion to Waive – 2.B.2.e(1)-(3)

- The defendant must establish that the waiver is:
  - consistent with public safety, and
  - promotes sentencing purposes:
    - Retribution
    - Incapacitation
    - Deterrence
    - Restitution
    - Rehabilitation
      - For rehabilitation, the court may examine:
        - Offender's use of available probation services in past year
        - Whether current offense is an escalation of criminal activity
        - Rehab/reentry progress

- Even then, waiver is discretionary with the judge.

Custody Status Point Waiver: Ineligible offense – 2.B.2.e(4)(i)-(vi)

Waiver of the custody point is eligible under very specific circumstances outlined in 2.B.2.e– all of which must be *examined by the sentencing court* to determine eligibility.

When waiver is not eligible is clearer. The court **may not waive custody** if either **the current offense** being sentenced **or** the **offense that custody status is assigned for** is an **ineligible** offense.

INELIGIBLE OFFENSES

- Offenses ranked at—
  - 8 or above (Standard Grid)
  - G or above (Sex Offender Grid)
  - D8 or above (Drug Offender Grid);
- Offenses on Severe Violent Offense List;
- Fleeing Peace Officer resulting in Great Bodily Harm; or
- Attempt or conspiracy to commit one of these offenses

Custody Status Point Waiver: An Illustration

Three offenders will be sentenced for offenses committed while under custody:

Defendant #1 is on probation for 4th-degree criminal sexual conduct and commits a new felony theft.

Defendant #2 is on supervised release for 1st degree burglary w/ a weapon and commits a new felony criminal vehicular operation.

Defendant #3 is confined for a gross misd. theft and commits a new felony Violate No Contact Order.

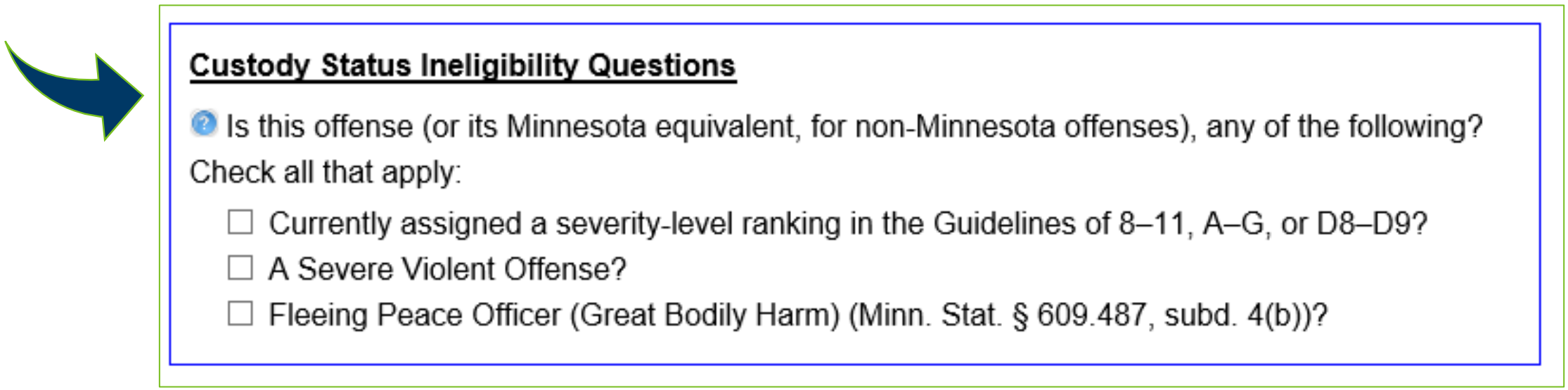
Who is eligible for waiver?

Defendants #1 & #2: each will get a custody point (sex offense and a high severity level).

Defendant #3: For this offense, the court is authorized to waive the custody point depending on the public safety determination.

Custody Status Waiver: Ineligibility and the Electronic Worksheet System (EWS)

The following questions must be answered on the felony "Add/Edit Priors" page when completing a sentencing worksheet. These will aid the EWS in determining if the custody point is eligible for *consideration* for waiver by the court under 2.B.2.e.



Custody Status Ineligibility Questions

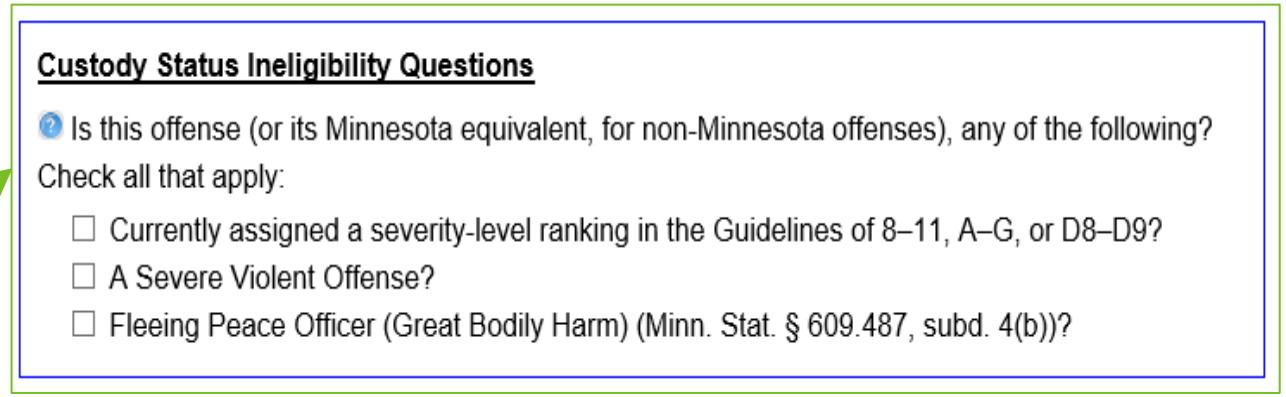
Is this offense (or its Minnesota equivalent, for non-Minnesota offenses), any of the following?

Check all that apply:

- ☐ Currently assigned a severity-level ranking in the Guidelines of 8–11, A–G, or D8–D9?
- ☐ A Severe Violent Offense?
- ☐ Fleeing Peace Officer (Great Bodily Harm) (Minn. Stat. § 609.487, subd. 4(b))?

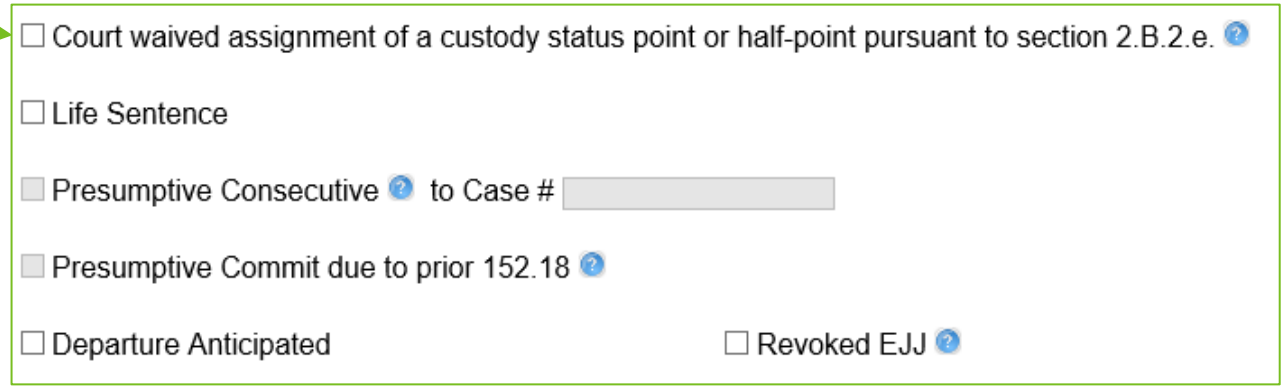
Custody Status Waiver Example #1: Eligible current and prior offenses and the Electronic Worksheet System (EWS)

In this example, the custody status assigned for the prior is eligible to be waived since none of these boxes are checked. If the *current offense* is also eligible, the system will enable the waiver option.



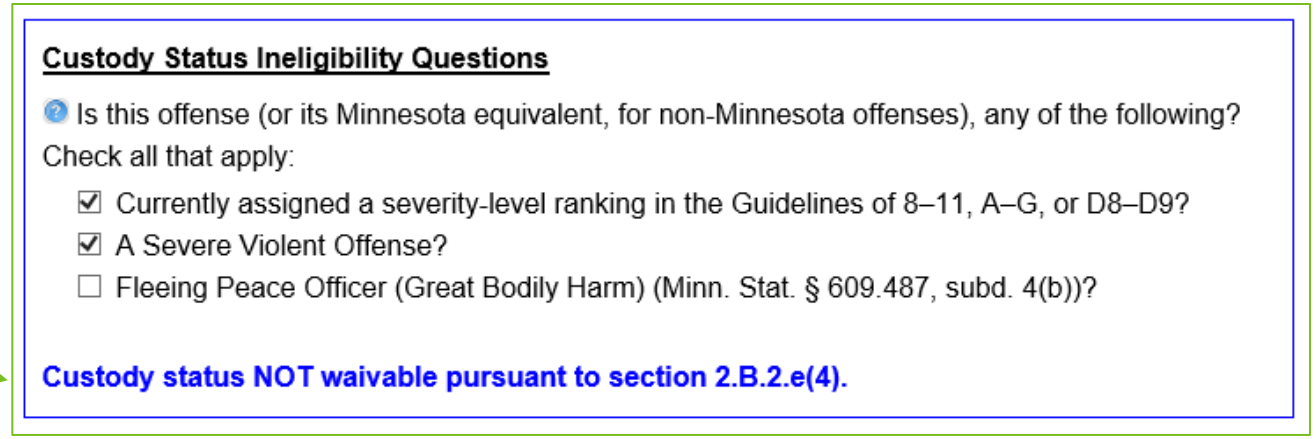
This box on the presumptive sentence screen will remain eligible to select.

If the court does waive the custody status point, do no remove the custody type

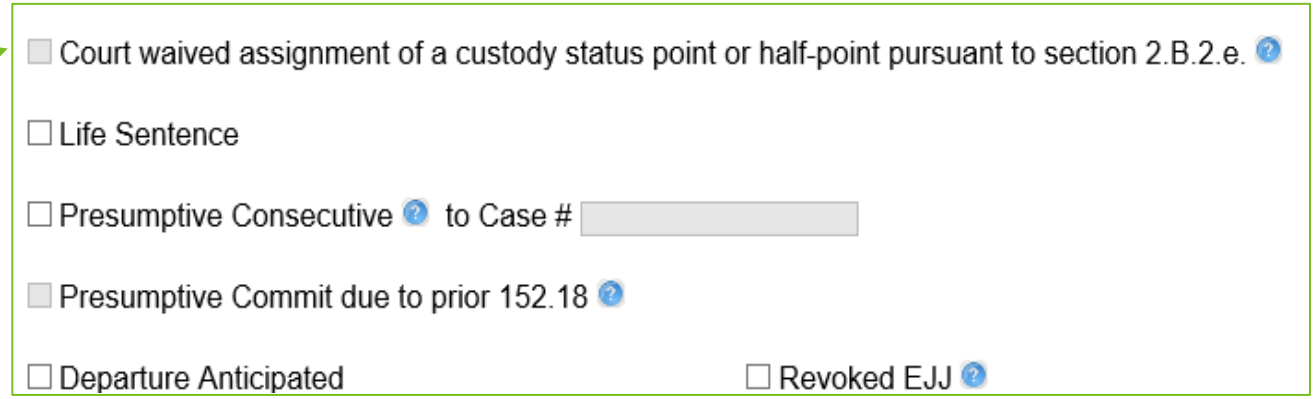


Custody Status Waiver Example #2: Ineligible current and prior offenses and the Electronic Worksheet System (EWS)

If the prior felony is ineligible because of either its severity level, or due to the answers to the ineligibility questions, the custody status cannot be waived. If the *current offense* is ineligible, the system will automatically inactivate the waiver option (below)



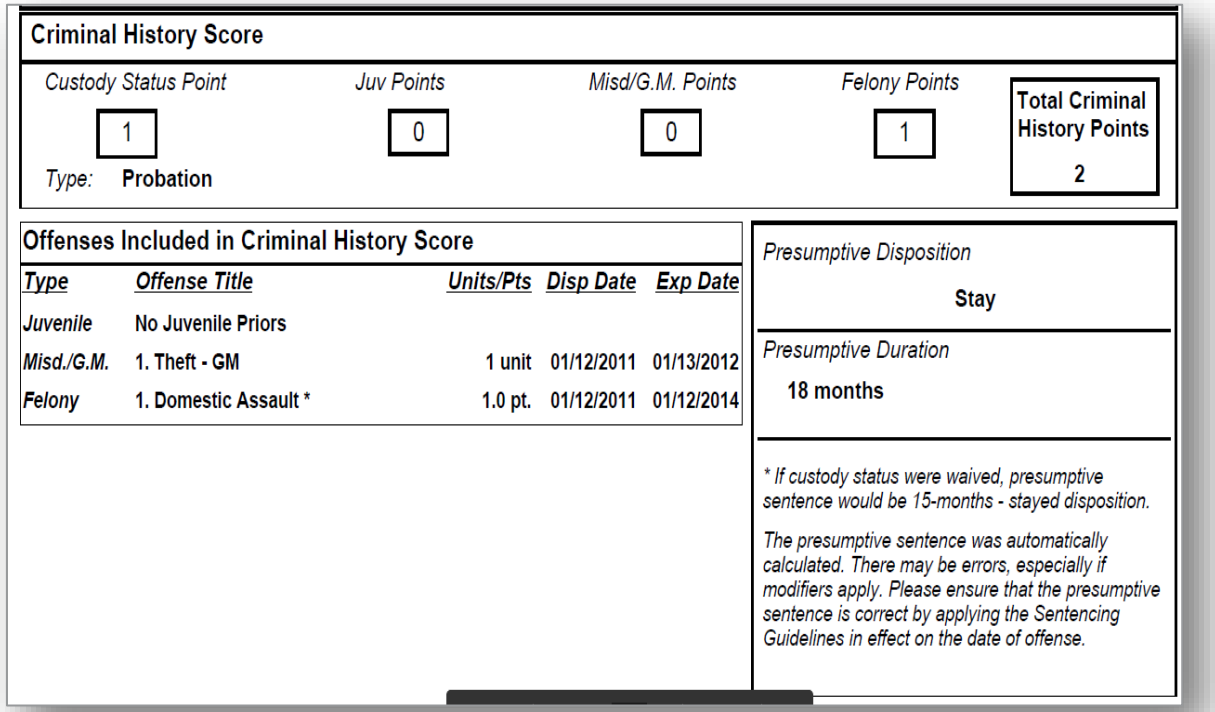
This box on the presumptive sentence screen will be greyed out, indicating that the custody point is ineligible for waiver under the policy.



Custody Status Waiver: EWS option

Eligible Custody Status Waiver - Box Not Checked

When the custody is eligible for waiver, the worksheet will indicate which offenses are eligible with an asterisk and a note recalculating the presumptive sentence.



Criminal History Score

Custody Status Point	Juv Points	Misd/G.M. Points	Felony Points	Total Criminal History Points
1	0	0	1	2

Type: Probation

Offenses Included in Criminal History Score

Type	Offense Title	Units/Pts	Disp Date	Exp Date
Juvenile	No Juvenile Priors			
Misd./G.M.	1. Theft - GM	1 unit	01/12/2011	01/13/2012
Felony	1. Domestic Assault *	1.0 pt.	01/12/2011	01/12/2014

Presumptive Disposition: Stay

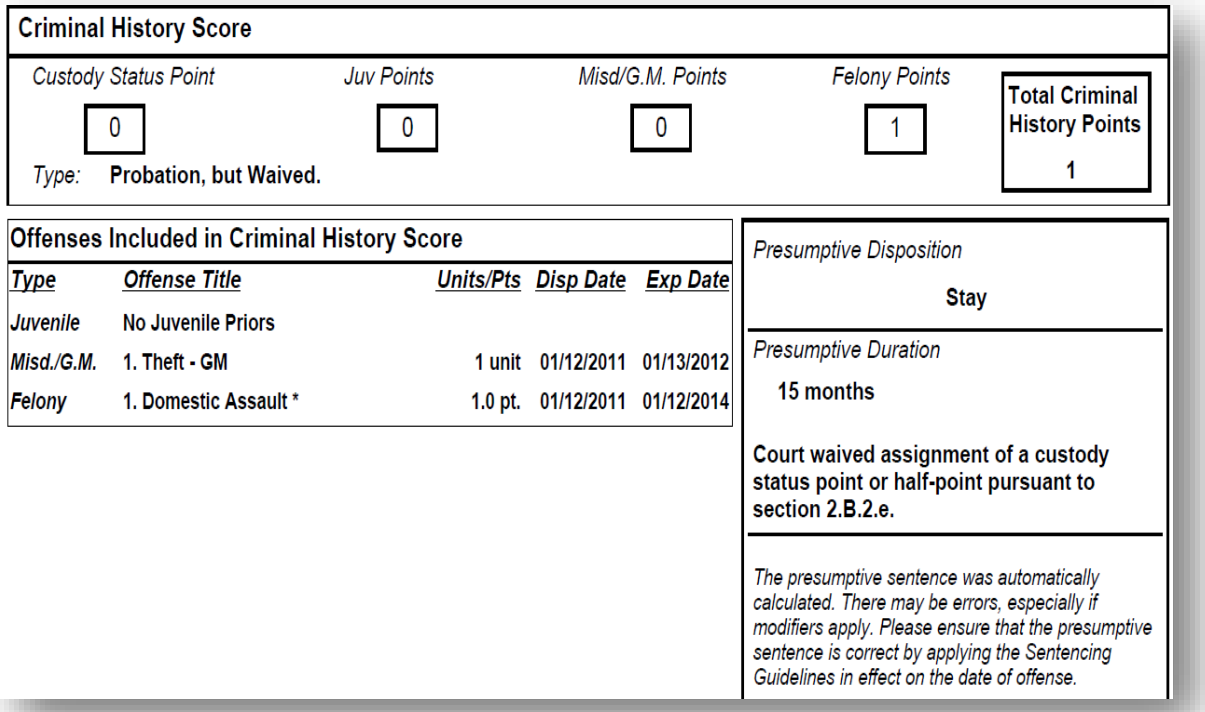
Presumptive Duration: 18 months

* If custody status were waived, presumptive sentence would be 15-months - stayed disposition.

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.

Eligible Custody Status Waiver - Box Checked

When the waiver box is selected, the custody point is 0 but the type remains, indicating it was waived. The sentence is then recalculated with a note indicating the waiver.



Criminal History Score

Custody Status Point	Juv Points	Misd/G.M. Points	Felony Points	Total Criminal History Points
0	0	0	1	1

Type: Probation, but Waived.

Offenses Included in Criminal History Score

Type	Offense Title	Units/Pts	Disp Date	Exp Date
Juvenile	No Juvenile Priors			
Misd./G.M.	1. Theft - GM	1 unit	01/12/2011	01/13/2012
Felony	1. Domestic Assault *	1.0 pt.	01/12/2011	01/12/2014

Presumptive Disposition: Stay

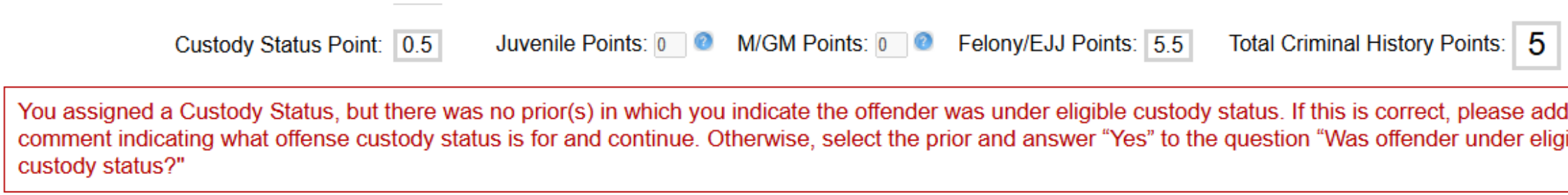
Presumptive Duration: 15 months

Court waived assignment of a custody status point or half-point pursuant to section 2.B.2.e.

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.

To custody waived on a reviewed worksheet, use Create Modified and check the box on the Presumptive Sentence page.

Custody status error message on Presumptive Sentence page



This message is valid *ONLY* when either:

1. a custody status of Release Pending Sentencing, Stay of Adjudication Custody, or Confined is assigned, and there is no prior included in history to mark as the custody offense.
   - These offenses would be included if they have been sentenced, or revoked, prior to sentencing on the current offense. If this occurs, use the appropriate custody type and answer the custody question on that priors' page to correctly calculate the point value; or
2. custody is for an misd. or gross misd. that was used to enhance the current offense as those are not included in criminal history.

Any other time this message appears, marking custody for a prior offense was missed.

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Post-8/1/2026 Custody Status Policies

2026 Custody Policy

For offenses committed on/after 8/1/2026, custody policy is now covered in the Presumptive Sentence section of 2.C.2.

- Custody is a durational increase based on the severity level of the current offense
- Custody will have no effect on the disposition, only the duration.
- Custody is applicable for felony offenses at a certain severity level – no misd/gross misd or low-level felonies are eligible to be used for custody
- The custody status is no longer waivable

What custody policies stayed the same

Offenses committed on/after 8/1/2026 will have custody added as a durational enhancement but will not change the disposition.

- **What is the same:**
  - The current offense is committed while the defendant is under a qualifying custody status following a guilty plea, guilty verdict, or conviction for a qualify prior.
  - The qualifying custody status types remain probation, parole, supervised release, conditional release (executed sentence), release pending sentencing, confined, escape from an executed sentence, and EJJ.
  - For offenses sentenced from the Sex Offender Grid other than Failure to Register, the duration shown in the custody status column will be doubled provided the custody offense is not Failure to Register.
    - Example: The current offense is a CSAM, and custody is for a prior Failure to Register; although custody would be assigned for the duration cited on the CSAM, it is not doubled. The reverse is also true, Failure to register w/ CSAM as custody, duration added but not doubled.
    - **But** if the current offense is CSAM, and custody is assigned for a prior CSC 2, the custody duration would be doubled since both the current and prior offense qualify under the policy.

Effective 8/1/2026 – what custody policies changed

For offenses committed on/after 8/1/2026, custody is added as a durational enhancement with no effect on the presumptive disposition.

What has changed:

- The custody offense must be a "qualifying offense."
  - A "qualifying offense" is defined as a prior felony assigned a severity level 3 or higher on the Standard Grid; a severity level D3 or higher on the Drug Offender Grid; and any offense found on the Sex Offender Grid; this includes out-of-state offenses equated by the court.
  - What no longer qualifies?
    - all the priors that could assigned a half-point for custody pre-2026 are no longer eligible to assign the custody duration.
    - Misd. and gross misd. offenses and felonies at severity level 1 or 2, or D1 or D2

Effective 8/1/2026 – what custody policies changed

For offenses committed on/after 8/1/2026, custody is added as a durational enhancement with no effect on the presumptive disposition.

What has changed:

- The severity level of the current offense will determine what duration is added to the presumptive sentence on the grid.
  - **For example: the current offense is an Agg Robb 1 and they are under custody for a prior Fleeing PO in a MV**
    - Although the custody question on the prior should be Yes to affect decay, no custody would be assigned since the Fleeing offense is a severity level 1
  - **For example: the current offense is the Fleeing offense, but they are under custody for a prior Agg. Robb 1**
    - Because they are under custody for the Agg Robb 1, the custody duration will be added to the grid time for the Flee
  - **For example: the current offense is a CSAM, and they are under custody a prior Failure to Register**
    - Although custody would be assigned for the duration cited on the CSAM, it is not doubled.
    - If the reverse were true, Failure to register w/ CSAM as custody, the duration would be added but not doubled.
    - BUT, if the current offense is a CSAM, and they are under custody for a prior CSC 2, the custody duration would be doubled since both the current and prior offense qualify under the policy.
- Always add the duration to the upper and lower ranges, keeping in mind any statutory minimum or maximum.

Using the post-2026 Sentencing 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							Custody Status
		0	1	2	3	4	5	6 or more	
Murder 2nd Degree (intentional)	11	306 *261–367*	326 *278–391*	346 *295–415*	366 *312–439*	386 *329–463*	406 *346–480*[1]	426 *363–480*[1]	+20
Murder 2nd Degree (unintentional)	10	150 *128–180*	165 *141–198*	180 *153–216*	195 *166–234*	210 *179–252*	225 *192–270*	240 *204–288*	+15
Murder 3rd Degree (drugs); Carjacking 1st Degree	9	86 *74–103*	98 *84–117*	110 *94–132*	122 *104–146*	134 *114–160*	146 *125–175*	158 *135–189*	+12
Agg. Robbery 1st Degree; Assault 1st Degree	8	48 *41–57*	58 *50–69*	68 *58–81*	78 *67–93*	88 *75–105*	98 *84–117*	108 *92–129*	+10
DWI 1st Degree; Assault 2nd Degree (weapon & SBH)	7	36 *31–43*	42 *36–50*	48 *41–57*	54 *46–64*	60 *51–72*	66 *57–79*	72 *62–84*[1,2]	+6
Ineligibly Possess Firearm; Assault 2nd Deg. (weapon)	6	21 *18–25*	27 *23–32*	33 *29–39*	39 *34–46*	45 *39–54*	51 *44–61*	57 *49–68*	+6
Assault 3rd Degree (SBH); Burglary 2nd Deg. (dwelling)	5	18 *16–21*	23 *20–27*	28 *24–33*	33 *29–39*	38 *33–45*	43 *37–51*	48 *41–57*	+5
Felony Domestic Assault; Violate No-Contact Order	4	12 *12–14*	15 *13–18*	18 *16–21*	21 *18–25*	24 *21–28*	27 *23–32*	30 *26–36*	+3
Assault 4th Degree; Vehicle Use w/out Consent	3	12 *12–14*	13 *12–15*	15 *13–18*	17 *15–20*	19 *17–22*	21 *18–25*	23 *20–27*	+2
Theft of $5,000 or Less; Check Forgery ($251–$2,500)	2	12 *12–14*	12 *12–14*	13 *12–15*	15 *13–18*	17 *15–20*	19 *17–22*	21 *18–25*	+2
Fleeing a Peace Officer	1	12 *12–14*	12 *12–14*	12 *12–14*	13 *12–15*	15 *13–18*	17 *15–20*	19 *17–22*	+2

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] 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.)

Finding the final presumptive sentence:

- Using the row for the Severity Level of the Conviction offense, move across the Grid to the Criminal History Score box.
- The presumptive sentence will be reflected in months, with the shaded or non-shaded boxes reflecting the disposition.
- The reflected sentence duration will have the custody enhancement added as applicable.
- This duration is now the presumptive sentence.
- Next, applying any dispositional or durational modifiers to calculate the final sentence.
- The final presumptive sentence will be either the sentence after all modifiers are applied, or the grid time, whichever is longer.

Using the post-2026 Sex Offender Grid

Finding the final presumptive sentence:

- Using the row for the Severity Level of the Conviction offense, move across the Grid to the Criminal History Score box.
- The presumptive sentence will be reflected in months, with the shaded or non-shaded boxes reflecting the disposition.
- The reflected sentence duration will have the custody enhancement added when applicable and doubled for certain sex offenses.
- This duration is now the presumptive sentence.
- Next, applying any dispositional or durational modifiers to calculate the final sentence.
- The final presumptive sentence will be either the sentence after all modifiers are applied, or the grid time, whichever is longer.

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	Custody Status
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]*	+18
CSC 2nd Degree, contact by harm/force	B	90 *90[2]–108*	110 *94–132*	130 *111–156*	150 *128–180*	195 *166–234*	255 *217–306*	300 *255–360*	+15
CSC 3rd Degree, penetration by coercion	C	48 *41–57*	62 *53–74*	76 *65–91*	90 *77–108*	117 *100–140*	153 *131–183*	180 *153–216*	+9
CSC 3rd Degree, penetration of child 14–15	D	36 *31–43*	48 *41–57*	60 *51–72*	70 *60–84*	91 *78–109*	119 *102–142*	140 *119–168*	+7
CSC 4th Degree, contact by coercion	E	24 *21–28*	36 *31–43*	48 *41–57*	60 *51–72*	78 *67–93*	102 *87–120*	120 *102–120[3]*	+6
CSC 4th Degree, contact of child 14–15	F	18 *16–21*	27 *23–32*	36 *31–43*	45 *39–54*	59 *51–70*	77 *66–92*	84 *72–100*	+4
Possession of Child Sexual Abuse Material	G	15 *13–18*	20 *17–24*	25 *22–30*	30 *26–36*	39 *34–46*	51 *44–60*	60 *51–60[3]*	+3
CSC 5th Degree, nonconsensual penetration	H	12 *12–14*	14 *12–16*	16 *14–19*	18 *16–21*	24 *21–24[3]*	*24[3] 24–24*	*24[3] 24–24*	+2
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*	+2

[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. 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.

Using the post-2026 Drug Offender 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	Custody Status
Aggravated Controlled Substance Crime 1st Deg.	D9	86 *74*–103*	98 *84*–117*	110 *94*–132*	122 *104*–146*	134 *114*–160*	146 *125*–175*	158 *135*–189*	+12
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*	+10
Controlled Substance Crime 2nd Degree	D7	48 *41–57*	58 *50–69*	68 *58–81*	78 *67–93*	88 *75–105*	98 *84–117*	108 *92–129*	+10
Controlled Substance Crime 3rd Degree	D6	21 *18–25*	27 *23–32*	33 *29–39*	39 *34–46*	45 *39–54*	51 *44–61*	57 *49–68*	+6
Possess Meth Precursors with Intent to Manufacture	D5	18 *16–21*	23 *20–27*	28 *24–33*	33 *29–39*	38 *33–45*	43 *37–51*	48 *41–57*	+5
Controlled Substance Crime 4th Degree	D4	12 *12–14*	15 *13–18*	18 *16–21*	21 *18–25*	24 *21–28*	27 *23–32*	30 *26–36*	+3
Meth/Fentanyl Crimes Involving Children	D3	12 *12–14*	13 *12–15*	15 *13–18*	17 *15–20*	19 *17–22*	21 *18–25*	23 *20–27*	+2
Controlled Substance Crime 5th Degree	D2	12 *12–14*	12 *12–14*	13 *12–15*	15 *13–18*	17 *15–20*	19 *17–22*	21 *18–25*	+2
Sale of Simulated Controlled Substance	D1	12 *12–14*	12 *12–14*	12 *12–14*	13 *12–15*	15 *13–18*	17 *15–20*	19 *17–22*	+2

* 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.

Finding the final presumptive sentence:

- Using the row for the Severity Level of the Conviction offense, move across the Grid to the Criminal History Score box.
- The presumptive sentence will be reflected in months, with the shaded or non-shaded boxes reflecting the disposition.
- The reflected sentence duration will have the custody enhancement added when applicable.
- This duration is now the presumptive sentence.
- Next, applying any dispositional or durational modifiers to calculate the final sentence.
- The final presumptive sentence will be either the sentence after all modifiers are applied, or the grid time, whichever is longer.

MINNESOTA SENTENCING GUIDELINES COMMISSION

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