
Minnesota Sentencing Guidelines Commission
Clarify the Policy for Offenses Committed for the Benefit of a Gang
February 20, 2014

Background: At the January meeting, the Commission reviewed the language in § 2.G.10 relating to crimes committed for the benefit of a gang. Because there are two forms of conspiracy under state law – general conspiracy, which halves the sentence duration, and conspiracy to commit a controlled substance offense, which does not impact the sentence – it was unclear whether the term “conspiracy” in § 2.G.10, was meant to refer to both modifiers. The Commission decided to clarify that the shorter benefit of a gang sentencing enhancement applies only to general conspiracy offenses. Following is proposed language to implement that decision.

Recommended Modification to § 2.G.:

10. Offense Committed for the Benefit of a Gang. When an offender is sentenced for an offense committed for the benefit of a gang under Minn. Stat. § 609.229, subd. 3(a):
- a. Pursuant to Minn. Stat. § 609.229, subd. 4, the presumptive disposition is always commitment; and
 - b. The presumptive duration is determined by locating the duration in the appropriate cell on the applicable Grid defined by the offender’s criminal history score and the underlying crime with the highest severity level, or the mandatory minimum for the underlying crime, whichever is longer, and adding:
 - (1) ~~If the victim of the crime was under the age of eighteen.~~ If the offense does not involve a victim or if the victim was eighteen or older:
 - (i) ~~24~~12 months, if the underlying offense was completed; or
 - (ii) ~~12~~6 months, if the underlying offense was an attempt or conspiracy under Minn. Stat. § 609.175
 - (2) ~~If the offense involves a victim was eighteen or older~~ under the age of eighteen:
 - (i) ~~12~~ 24 months, if the underlying offense was completed; or
 - (ii) ~~6~~ 12 months, if the underlying offense was an attempt or conspiracy under Minn. Stat. § 609.175