
Minnesota Sentencing Guidelines Commission
Definition of the Terms “Severity Level” and “Criminal History Score”
Clarify the General Rule for Determining a Severity Level
September 19, 2013

Description: During its website redesign, MSGC staff realized that there were no definition for the terms “Severity Level” and “Criminal History Score” in the 2013 Guidelines definition found in § 1.B.

Further, § 2.A.1, the general rule for assigning a severity level, describes a situation in which multiple convictions lead to the assignment of only one severity level. This language is intended to address the situation where an offender is convicted of two or more felony offenses arising from the same behavioral incident. But it incorrectly states that the severity level is determined by the most severe conviction offense when instead the court should sentence the most serious offense and then utilize the severity level attendant to that offense.

Guidelines Considerations: According to the 2013 Minn. Sentencing Guidelines § 2.A.1, the general rule for severity level assignment is:

“the severity level is determined by the conviction offense. When an offender is convicted of two or more felonies, the severity level is determined by the most severe conviction.”

MSGC Staff Recommendation: Staff recommends revising 2014 Minn. Sentencing Guidelines, by adding a definition for the terms “severity level” and “criminal history score” to §1.B, moving language from the general rule for severity level application to the definition, and moving the information referring to the most serious offense to a comment as described below.

Recommended Modification to § 1.B:

(Insert new paragraphs 4 and 16 and renumber subsequent paragraphs)

B. Definitions

As used in these Sentencing Guidelines (or “Guidelines”), the following terms have the meanings given.

4. Criminal History Score. The “criminal history score” is comprised of criminal history factors detailed in section 2.B. The horizontal axis on the applicable grid represents the offender’s criminal history score.

16. Severity Level. The “severity level” is a ranking assigned to each felony offense by the Sentencing Guidelines Commission to indicate the seriousness of the offense. The vertical axis on the applicable grid represents the severity of the conviction offense. Felony offenses, other than sex offenses, are arranged on the Standard Grid into eleven levels of severity, ranging from high (Severity Level 11) to low (Severity Level 1). Sex offenses are arranged on the Sex Offender Grid into eight severity levels, ranging from high (Severity Level A) to low (Severity Level H). Offenses listed within each severity level are deemed equally serious.

Recommended Modification to § 2.A.1:

1. General Rule. The applicable offense severity level is determined by the conviction offense, not the charging offense. ~~When an offender is convicted of two or more felonies, the severity level is determined by the most severe conviction offense. Felony offenses, other than sex offenses, are arranged on the Standard Grid into eleven levels of severity, ranging from high (Severity Level 11) to low (Severity Level 1). Sex offenses are arranged on a separate Sex Offender Grid into eight severity levels, ranging from high (Severity Level A) to low (Severity Level H). Offenses listed within each severity level are deemed to be equally serious.~~ The severity level for each felony offense is governed by found in section 5A, Offense Severity Reference Table.

Recommended Modification to Comments to § 2.A:

2.A.07. *When an offender is convicted of two or more felony offenses arising from a single behavioral incident, Minn .Stat. § 609.035 “contemplates that a defendant will be punished for the ‘most serious’ of the offenses.” State v. Kebaso, 713 N.W.2d 317, 322 (Minn. 2006). When*

this occurs, the applicable severity level to use in determining the presumptive sentence is the severity level assigned to the offense being sentenced, which is ordinarily the most serious offense.