



MINNESOTA

SENTENCING GUIDELINES COMMISSION

2026 Sentencing Guidelines Modifications

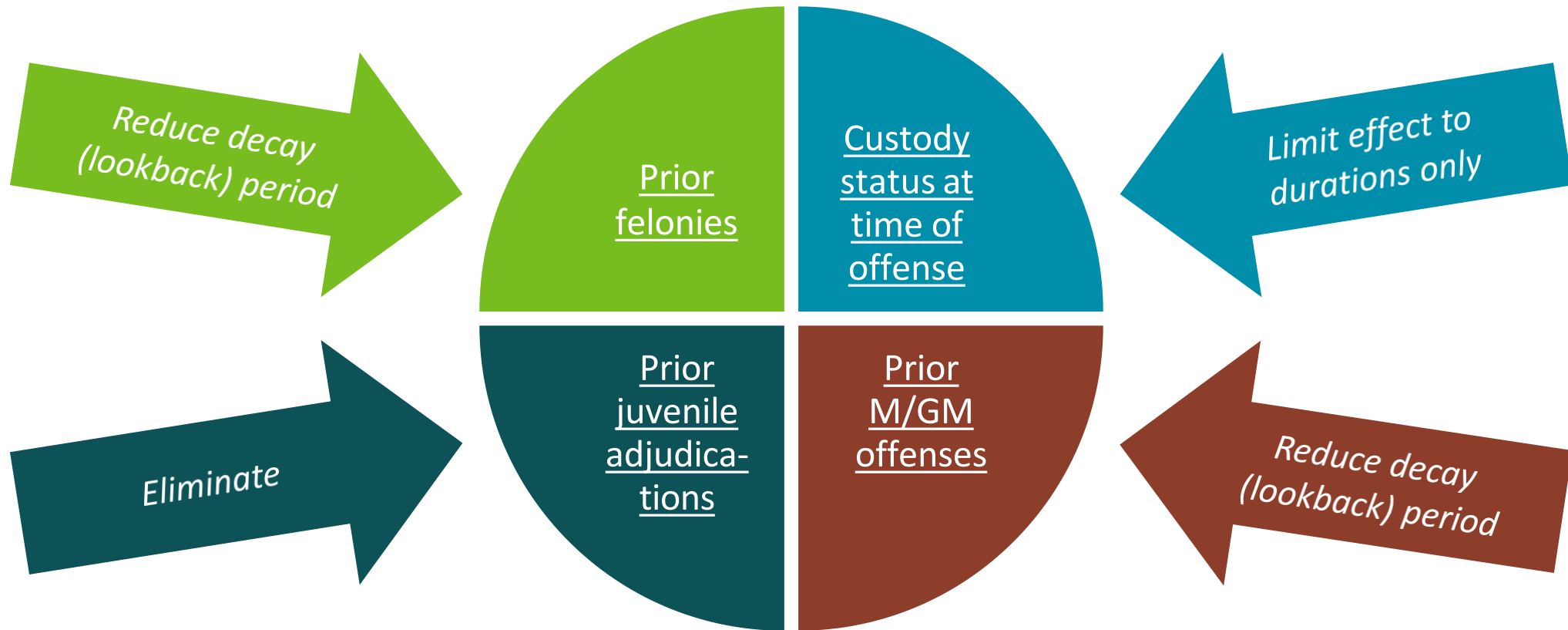
A comprehensive review of the Sentencing Guidelines

- 1980: In Minnesota, the nation's first sentencing guidelines commission promulgates the nation's first sentencing guidelines
- 1980–2023: The Commission meets monthly to review various aspects of the Guidelines, but never as a comprehensive whole
- 2023: The Legislature funds phase 1 of a comprehensive review
 - Extensive stakeholder engagement
 - Research assistance from elite team of University of Minnesota academics
- Late 2024: A plan was developed to bring the main effort of the comprehensive review to a consensus-based policy conclusion by the end of 2025
- These modifications include the results of the extensive work undertaken by the Commission, along with Legislative activity during the 2026 session.



Modifications to the Criminal History Score

Changes to all four criminal-history components



Change decay period for prior felonies

WHAT

- A history of prior felonies is relevant to sentencing considerations like risk and blameworthiness
- With time, old crimes lose relevance
- Current decay factor: Old felonies stop being counted fifteen years after prison discharge or prior sentencing date
- **2026 Modification:** Decay period is reduced to ten years

WHY

- A ten-year decay period is more in-step with other jurisdictions (and Minnesota statutory lookback periods)
- Reducing decay time focuses punishment more on current offense, less on old, already-punished priors
- Research: Older offenses are less valid in predicting risk after 7–10 crime-free yrs., risk drops to general pop.

Prior
felonies

Prior⁵

In Practice: post-2026 felony decay periods – 2.B.1

* Prior Offense Type: **Felony**
Sequence: **3**
Jurisdiction: **Minnesota** Jurisdiction County: **BECKER** Court Case Number: **CR198521**
* Description: **MN and eligible non-MN felony prior w/ felony sentence, felony Stay of Imposition, or EJJ dispo**
* Severity Level: **D7**
* Did this prior result in a prison term: ☒ Yes ☐ No
* Was offender under eligible custody status for the offense on 8/2/2019: ☒ Yes ☐ No
* Disposition Date: **01/01/2018**
* Expiration Date: **01/01/2019** **Post-2026: 01/01/2029**
* Points **1.5**

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* Severity Level: **D7**
* Did this prior result in a prison term: ☐ Yes ☒ No
* Was offender under eligible custody status for the offense on 8/2/2019: ☒ Yes ☐ No
* Disposition Date: **01/01/2018** **Post-2026: 01/01/2028**
* Expiration Date: **01/01/2019**
* Points **1.5**

* Prior Offense Type: **Felony**
Sequence: **1**
Jurisdiction: **Minnesota** Jurisdiction County: **AITKIN** Court Case Number: **CR221345**
* Description: **Felony Violation of a No-Contact Order**
* Severity Level: **4**
* Did this prior result in a prison term: ☐ Yes ☒ No
* Was offender under eligible custody status for the offense on 12/20/2022: ☒ Yes ☐ No
* Disposition Date: **03/10/2022**
* Expiration Date: **03/10/2025** **Post-2026: Still under custody; no decay**

The questions posed for the felony priors will affect both the decay period.

- “Did this prior result in a prison term” is based on the status of that prior’s sentence when the current offense occurred.
 - Check ‘Yes’ if the original disposition was prison, or if the stayed sentence was revoked to prison.
 - **Post-2026:** the decay period is **10 years** from the Expiration Date to the current offense date.
 - Check ‘No’ if the original disposition was, and remained, a stayed sentence.
 - If revocation remained a stay – e.g., stay of imp to stay of ex – use the date of the original sentence.
 - If a Stay of Adjudication is revoked to a stay or imp or a stay of ex, use the date of *that* disposition, the first imposed sentence.
 - **Post-2026:** the decay will be **10 years** from the Disposition Date to the date the current offense occurred.

Pre- and Post-2026:

- “Was the offender under eligible custody status for the offense on [offense date]” should be answered if a custody type was added since felonies still under custody will not decay until the sentence is completed.

Convert custody status to a durational modifier

WHAT

- Currently, custody status at the time of the offense is part of the criminal history score
- Goes to blameworthiness: Failure to correct behavior while supervised
- **2026 Modification:** Custody status will be a **durational** modifier with no effect the disposition with no waiving of custody

Custody
status
time of
offense

Prior

WHY

- Research: Custody status, alone, is a poor predictor of future recidivism risk
- While retaining a durational consequence for custody status, the proposal limits the effect of double-counting a prior offense in the criminal history score
- The disposition decision will properly be based on offense severity and prior convictions

In Practice: post-2026 offenses and custody status as a durational modifier – 2.C

For offenses committed on/after 8/1/2026, custody will now be a durational enhancement with no effect on the presumptive disposition.

- **What remains the same:**
 - The requirement of the guilty plea, guilty verdict, or conviction on a qualify offense and the current offense is committed while the defendant was under custody for a qualifying offense.
 - The qualifying custody statuses remain the same as pre-2026 statuses: probation, parole, supervised release, conditional release (executed sentence), release pending sentencing, confined, and escape from an executed sentence.
 - A doubling of the custody duration for certain offenses from the Sex Offender Grid.

In Practice: post-2026 offenses and custody status as a durational modifier – 2.C

For offenses committed on/after 8/1/2026, custody will now be 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 a felony:
 - assigned a severity level 3 or greater on the Standard Grid; assigned a severity level D3 or greater on the Drug Offender Grid; and any offense found on the Sex Offender Grid (Failure to Register is included in this list); this includes out-of-state offenses that have been equated by the court.
 - The duration added to the presumptive sentence from the Grid will be increased by the amount shown in the custody status column based on the severity level of the current offense.
 - Misd. and gross misd. offenses and low-level felonies from the standard grid (1 and 2) and the drug grid (D1 and D2) are no longer qualifying offenses.
 - Example: A felony prior Fleeing Peace Officer in a Motor Vehicle cannot be used as an eligible prior for custody, BUT a *current* felony Fleeing would be eligible to have a custody duration assigned to it for a prior qualifying offense.
 - The custody duration is not applied when the offense(s) will receive a consecutive sentence.
- Keep in mind that there are now ranges on the grids for stayed sentences. Be certain to consider the addition of the custody duration to the upper and lower ranges, keeping in mind any statutory minimum or maximum.

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 <i>Example offenses listed in italics</i>		CRIMINAL HISTORY SCORE							Custody Status
		0	1	2	3	4	5	6 or more	
<i>Murder 2nd Degree (intentional)</i>	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
<i>Murder 2nd Degree (unintentional)</i>	10	150 128-180	165 141-198	180 153-216	195 166-234	210 179-252	225 192-270	240 204-288	+15
<i>Murder 3rd Degree (drugs); Carjacking 1st Degree</i>	9	86 74-103	98 84-117	110 94-132	122 104-146	134 114-160	146 125-175	158 135-189	+12
<i>Agg. Robbery 1st Degree; Assault 1st Degree</i>	8	48 41-57	58 50-69	68 58-81	78 67-93	88 75-105	98 84-117	108 92-129	+10
<i>DWI 1st Degree; Assault 2nd Degree (weapon & SBH)</i>	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
<i>Ineligibly Possess Firearm; Assault 2nd Deg. (weapon)</i>	6	21 18-25	27 23-32	33 29-39	39 34-46	45 39-54	51 44-61	57 49-68	+6
<i>Assault 3rd Degree (SBH); Burglary 2nd Deg. (dwelling)</i>	5	18 16-21	23 20-27	28 24-33	33 29-39	38 33-45	43 37-51	48 41-57	+5
<i>Felony Domestic Assault; Violate No-Contact Order</i>	4	12 12-14	15 13-18	18 16-21	21 18-25	24 21-28	27 23-32	30 26-36	+3
<i>Assault 4th Degree; Vehicle Use w/out Consent</i>	3	12 12-14	13 12-15	15 13-18	17 15-20	19 17-22	21 18-25	23 20-27	+2
<i>Theft of \$5,000 or Less; Check Forgery (\$251-\$2,500)</i>	2	12 12-14	12 12-14	13 12-15	15 13-18	17 15-20	19 17-22	21 18-25	+2
<i>Fleeing a Peace Officer</i>	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.)

In Practice: using the post-2026 custody status column on the Grid

The post-2026 grids all work the same way, so these rules are applied to all grid.

- 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 doubled when the current offense and the prior are both on the Sex Offender Grid (other than Failure to Register).
- 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.

Custody
status at
time of
offense

Change decay period for prior misdemeanors & gross misd.; simplify rules for counting priors

Prior
misdemeanors
& grosses

WHAT

- **2026 Modification:**
Reduced decay period for misd and gross misd priors from **ten** to **seven** years, a similar percentage reduction as the felony decay
- **Additional 2026 Modification:**
Simplified rules for counting priors, and the elimination of the special rules for counting prior DWIs

WHY

- The misdemeanor/gross misdemeanor decay reduction is supported by the reasons stated for the felony decay reduction
- The changes to the rules for counting priors simplifies the Guidelines and eliminates disparity in how prior DWIs are treated compared to prior assault and domestic-assault convictions

In Practice: post-2026 offenses and criminal history policies for misdemeanor and gross misdemeanor priors – 2.B.3

1. Eligible priors:

- Targeted misd.
- Non-traffic gross misd offenses receiving a gross misd sentences including DWI, Refusal to Test, and Reckless Driving
 - ❖ A gross misd prior sentenced to less than 90-days must be a targeted misd to be included.

Felonies sentenced to less than a felony duration based on the sentencing date.

2. Decay period:

- Eligible priors are included when not more than **7 years** has elapsed between the Disposition Date and the current offense date.

* Prior Offense Type: **Misdemeanor/Gross Misdemeanor**

Sequence: **1**

Jurisdiction: Jurisdiction County: Court Case Number:

* Description:

* ☒ Was offender under eligible custody status for the offense on 3/7/2024: ☒ Yes ☐ No

* Disposition Date: **This prior offense will decay on 3/22/2030**

Expiration Date:

* Units: **1**

3. Units to points:

- Each prior is worth 1 unit, **which will now auto-populate.**
- Four units make 1 point, **which auto-populate and lock in place (no changes).**
- **This the maximum in all cases.**

Although custody is no longer assigned for misd/gross misd. priors, the question will still appear. This can now be used to will inform the court of custody but will not apply the durational modification.

In practice: post-2026 change to misd/gross misd offenses used to enhance a felony – 2.B.3

- The policy has been moved from 2.B.6 to 2.B.3 – the misd/gross misd policy section
- Qualifying adult felony or Extended Jurisdiction Juvenile (EJJ) convictions used to enhance the current offense are eligible to be used for custody
- Targeted misd. and gross misd. priors used to enhance the current felony offense cannot be listed in criminal history on the felony *they are enhancing*
 - These priors are eligible to be used, along with the felony they enhanced, as criminal history for offenses they are *not* enhancing.
 - **It is no longer a policy to remove the three M/GM DWIs that enhance the first felony from any subsequent felony DWI.**
 - Prior adult felonies remain in criminal history under the policies in 2.B.1.

Remove prior juvenile adjudications from the score

Prior
felonies

Prior
juvenile
adjudica-
tions

WHAT

- **2026 Modification:** Eliminate prior juvenile adjudications from use for the Guidelines' criminal-history score
- EJJ convictions, and adult-certification convictions, will continue to count in the felony section of the score

WHY

- Actual convictions do and should count in the criminal history score
- The current rules are so narrow that few qualify for a juvenile point
- Research: The juvenile point doesn't predict re-offense risk well, but its elimination would reduce sentencing disparities

In Practice: post-2026 offenses and juvenile priors

PRIOR JUVENILE ADJUDICATIONS ARE NO LONGER INCLUDED IN CRIMINAL HISTORY FOR FELONY OFFENSES COMMITTED ON/AFTER 8/1/2026.



Changes to Offense Severity Levels

SEVERITY LEVEL OF CONVICTION OFFENSE (Example offenses listed in <i>italics</i>)		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 ¹	426 363-480 ¹
<i>Murder, 2nd Degree (Unintentional) 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) 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 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 Financial Exploitation of a Vulnerable Adult</i>	7	36	42	48	54 46-64	60 51-72	66 57-79	72 62-84 ^{1,2}
<i>Assault, 2nd Degree 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 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) Check Forgery (\$251-\$2,500)</i>	2	12	12	13	15	17	19	21 18-25
<i>Assault, 4th Degree Fleeing a Peace Officer</i>	1	12	12	12	13	15	17	19 17-22

SEVERITY LEVEL CHANGES FOR CERTAIN ASSAULTS

1° Assault resulting in great bodily harm under subd. 1
– lowered from 9 to 8

2° Assault – dangerous weapon and substantially
bodily harm under subd. 2 – raised from 6 to 7

3° Assault resulting in substantial bodily harm under
subd. 1 **and** Domestic Assault by Strangulation – both
raised from 4 to 5

4° Assault for all subdivisions – raised from a 1 to a 3

**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 ¹	426 363-480 ¹
<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 ^{1,2}
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<i>Residential Burglary</i> <i>Simple Robbery</i>	5	18	23	28	33 29-39	38 33-45	43 37-51	48 41-57
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<i>Assault, 4th Degree</i> <i>Fleeing a Peace Officer</i>	1	12	12	12	13	15	17	19 17-22

**CHANGES TO CRIMINAL VEHICULAR
OPERATION (CVO) OR HOMICIDE (CVH)**

CVH while impaired with Qualified Prior Driving Offense* – raised from 8 to 9

CVO–Great Bodily Harm; impaired or grossly negligent (also includes injury to unborn child) under 609.2114. 2(1)-6) – raised from 5 to 6

**Prior to 8/1/2026, this is a modifier for the severity level 8 offense. The modifier was eliminated and the severity level was raised.*

2026 New & Amended policies for Impersonating a Peace Officer

2026 brings new and updated severity level rankings for offenses committed under Minn. Stat. §609.4751.

- Under subd. 1, the offense will be ranked at severity level 2.
- Under subd. 2, the offense will be ranked at severity level 4.
- Under subd. 3(a), the offense will be re-ranked at severity level 5.
- Under subd. 3(b), the offense will be ranked at severity level severity level 6.
- Under subd. 4(a)(2), the offense will be ranked at a severity level 3 when the underlying offense is a gross misdemeanor.
- **A new penalty modifier has been added for Committing or an Attempt or Conspiracy to Commit a Felony While Impersonating a Peace Officer under subd. 4(a)(3).**
 - **2.G.14 Offense Committed While Impersonating a Peace Officer.** For a crime for which the maximum penalty has been increased under Minn. Stat. § 609.4751, subd. 4(a)(3), the presumptive duration applicable to the underlying crime is increased by:
 - 12 months, if the underlying offense was completed; or
 - 6 months, if the underlying offense was an attempt under Minn. Stat. § 609.17 or conspiracy under Minn. Stat. § 609.175.



Additional Changes to the Sentencing Guidelines

CLARIFY GUIDELINES' PURPOSE AND PRINCIPLES

- Revisions to the Commission's philosophy of the Sentencing Guidelines were made to include a new definition of "public safety," a discussion of proportionality, and the purpose of the criminal history score

CLARIFY BURDEN TO PROVE OUT-OF-STATE OFFENSES

- Despite clear case law placing the burden to prove out-of-state offenses on the prosecutor, this burden often falls on probation officers
- 2.B.5 now cites that the burden of proof is with the state, meaning the prosecutor
- Remaining in the policy is that the court is to make the final decision for the prior's inclusion.

SHADED RANGES/ NEW EXAMPLE OFFENSES

- The absence of displayed ranges in the shaded cells can cause errors or misunderstandings about the range
- The grids' shaded cells now have a discretionary range cited
- The grids have updated *example offenses*

NEW DEPARTURE FACTOR

- Research: True first-time offenders (as opposed to "0" criminal history) recidivate less & are less blameworthy
- A new mitigated departure factor is now cited in 2.D for true first-time offenders

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 modifications to the Sentencing Guidelines that were discussed in this presentation.

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

For assistance, please e-mail sentencing.guidelines@state.mn.us
or call us at 651-296-0144