



**MINNESOTA**

SENTENCING GUIDELINES COMMISSION

# **2024 REPORT TO THE LEGISLATURE**

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658 Cedar Street, Suite G-58

Saint Paul, MN 55155

Website: <http://mn.gov/sentencing-guidelines>

Email: [sentencing.guidelines@state.mn.us](mailto:sentencing.guidelines@state.mn.us)

Voice: (651) 296-0144 • Minnesota Relay: 711

## COMMISSION MEMBERS

Kelly Lyn Mitchell, Chair and Designee of the Commissioner of Corrections

Michelle A. Larkin, Vice-Chair and Minnesota Court of Appeals Judge

Christopher E. Crutchfield, CEO, Ujamaa Place

Richard Frase, Professor Emeritus, University of Minnesota Law School

David Knutson, First Judicial District Court Judge

Kyra Ladd, Wadena County Attorney

Cathryn Middlebrook, Chief Appellate Public Defender

Gordon L. Moore, III, Minnesota Supreme Court Justice

Tim Morin, Public Member

Brooke Morath, Public Member

Chief Brian Mueller, Stillwater Police Department

Latonya Reeves, Hennepin County Career Probation Officer

Surya Saxena, Public Member

## COMMISSION STAFF

Nathaniel J. Reitz, Executive Director

Leah Bower, Senior Research Analyst Supervisor

Kathleen Madland, Research Analysis Specialist

Linda McBrayer, Management Analyst 4

Jill Payne, Senior Research Analyst

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# Introduction

The Minnesota Sentencing Guidelines Commission submits this report to the Legislature to fulfill its three statutory reporting requirements:<sup>1</sup>

- To identify and explain all Sentencing Guidelines modifications made during the preceding twelve months;
- To identify, explain, and submit to the Legislature any modifications proposed to take effect in 2024; and
- To summarize and analyze reports received from county attorneys on criminal cases involving a firearm.

The Commission also takes this opportunity to report on a legislatively mandated review; to recommend changes in the Criminal Code; and to highlight other topics that may be of interest to the Legislature, including updates on Commission activities, staff activities, and sentencing trends.

In 1980, Minnesota became the first state to implement a sentencing guidelines structure. The Legislature created the Minnesota Sentencing Guidelines Commission (MSGC) to establish and improve the Minnesota Sentencing Guidelines, evaluate outcomes of changes in sentencing policy, analyze trends, make appropriate recommendations, and provide education on sentencing law and policy.

When establishing and modifying the Guidelines, the Commission’s primary consideration is public safety. Other considerations are current sentencing and release practices, correctional resources—including, but not limited to, the capacities of local and state correctional facilities—and the long-term negative impact of crime on the community.<sup>2</sup> The Commission’s stated purpose of the Sentencing Guidelines is to establish rational and consistent sentencing standards that reduce sentencing disparity and ensure that the sanctions imposed for felony convictions are proportional to the severity of the conviction offense and the offender’s criminal history. The Sentencing Guidelines embody principles including that sentencing should be neutral, rational, consistent, and uniform, and that departures from the presumptive sentences should be made only when substantial and compelling circumstances can be identified and articulated.<sup>3</sup>

Minnesota’s imprisonment rates are related to Sentencing Guidelines recommendations as to who should go to prison and for how long—recommendations based primarily on the seriousness of the offense and the criminal history score. In each of the first 34 years the Guidelines were in effect—from 1980 through 2013—Minnesota ranked nationally among the three states with the lowest imprisonment rates. More recently, however, Minnesota’s imprisonment-rate ranking has risen, and, by 2022, it had grown to seventh-lowest.<sup>4</sup> Minnesota’s

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<sup>1</sup> [Minn. Stat. § 244.09](#), subds. 11 & 14; see also [Minn. Stat. § 609.11](#), subd. 10.

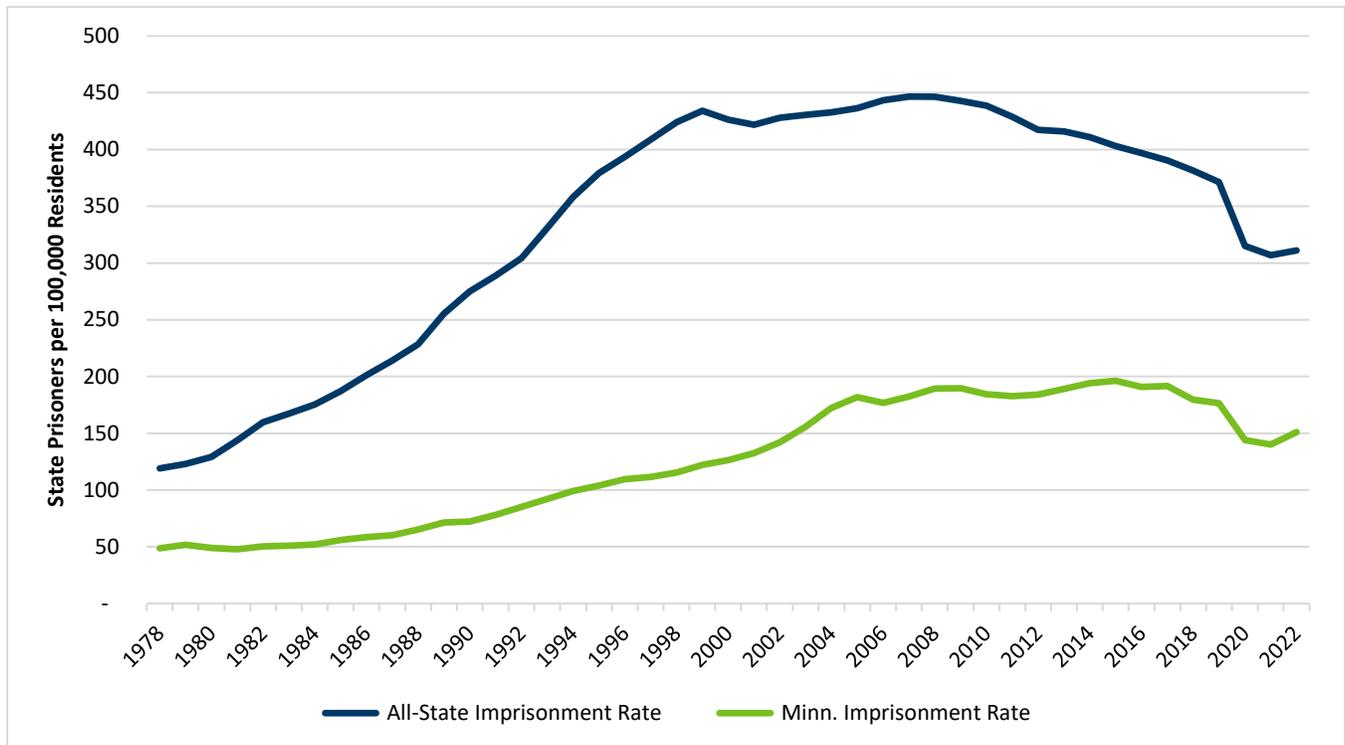
<sup>2</sup> [Minn. Stat. § 244.09](#), subd. 5.

<sup>3</sup> [2021 Minn. Sentencing Guidelines & Commentary](#) section 1.A.

<sup>4</sup> Minnesota’s imprisonment rate was 4th-lowest in 2014, 2018, & 2019; 5th-lowest in 2017; 6th-lowest in 2020 & 2021; and 1st-, 2nd-, or 3rd-lowest in 1980–2013, 2015, & 2016. E. Ann Carson, “Prisoners in 2022 – Statistical Tables” (NCJ 307149) (Bureau of Justice Statistics (BJS), Nov. 2023), Table 7 (retrieved Dec. 6, 2023, at <https://bjs.ojp.gov/document/p22st.pdf>); E.A. Carson, “Prisoners in 2021 – Statistical Tables” (NCJ 305125) (BJS, Dec. 2022), Table 7 (retrieved Dec. 6, 2023, at <https://bjs.ojp.gov/content/pub/pdf/p21st.pdf>); E.A. Carson, “Imprisonment Rate of Sentenced Prisoners under the

2022 imprisonment rate, 151 prisoners per 100,000 Minnesotans, was triple its 1980 rate.<sup>5</sup> Nevertheless, Minnesota’s imprisonment rate remains less than half the national state imprisonment rate (Figure 1).<sup>6</sup>

Figure 1. All-State and Minnesota Imprisonment Rates, 1978–2022



Source: Bureau of Justice Statistics

In cases in which prison sentences are stayed, the court usually places the defendant on probation. Until 2020, neither the Sentencing Guidelines nor the Criminal Code gave specific guidance regarding the appropriate length of a period of probation.<sup>7</sup> Minnesota’s seventh-lowest imprisonment rate stands in contrast to its probation rate, which, in 2021, was the fourth highest among all states.<sup>8</sup>

Jurisdiction of State or Federal Correctional Authorities per 100,000 U.S. Residents, Dec. 31, 1978–2019” (BJS, Oct. 14, 2020) (retrieved Dec. 5, 2023, at [https://csat.bjs.ojp.gov/assets/documents/QT\\_imprisonment%20rate\\_total.xlsx](https://csat.bjs.ojp.gov/assets/documents/QT_imprisonment%20rate_total.xlsx)).

<sup>5</sup> Minnesota’s 1980 imprisonment rate was 49 per 100,000.

<sup>6</sup> The 2022 imprisonment rate for all states was 311 prisoners per 100,000 U.S. residents. Neither rate includes inmates of federal prisons or local correctional facilities. “Prisoners in 2022,” Table 5.

<sup>7</sup> For an explanation of the Guidelines’ five-year presumptive probation cap established in 2020, and the Legislature’s codification of a similar cap in 2023, see the “Codification of Five-Year Probation Cap” discussion on p. 5.

<sup>8</sup> About 1 in 52 (1,927 in 100,000) adult Minnesotans was on state probation in 2021, compared to about 1 in 88 (1,138 in 100,000) residents of all states. Danielle Kaebler, “Probation & Parole in the U.S., 2021” (NCJ 305589) (BJS, Feb. 2023), App’x Table 6 (retrieved Dec. 6, 2023, at <https://bjs.ojp.gov/sites/g/files/xyckuh236/files/media/document/ppus21.pdf>).

# Executive Summary

## The Commission’s Work in 2023 (p. 4)

To fulfill its statutory mission to improve the Sentencing Guidelines and research sentencing practices and other matters relating to the improvement of the criminal justice system, the Minnesota Sentencing Guidelines Commission met eleven times in 2023 and held one public hearing. Its most significant actions were—

- Responding to the work of the historic 2023 legislative session (p. 5); and
- Beginning a multiyear, comprehensive review of the Sentencing Guidelines (p. 9).

In addition, the Commission recommends that the Legislature make seven changes to criminal law (p. 10).

## MSGC Staff’s Work in 2023 (p. 12)

In 2023, staff provided Sentencing Guidelines guidance to an average of 100 practitioners per month; provided the Legislature with 66 fiscal impact statements and 5 demographic impact statements for pending crime bills; compiled and reported sentencing information for over 500 individual data requests; participated in various criminal justice boards, forums and committees; processed and ensured the accuracy of over 20,000 sentencing records; worked with the Department of Corrections to generate prison bed projections; and published the annual edition of the Minnesota Sentencing Guidelines and Commentary.

## 2022 Sentencing Practices Data Summary (p. 15)

This report gives a high-level review of sentencing practices in 2022, including the facts that—

- The volume of felony cases sentenced continued to rebound after the 2020 drop;
- There were key differences by race and ethnicity by decision point;
- There was a growing gap between recommended and pronounced prison sentences;
- There were geographical sentencing variations; and
- Some offenses received downward dispositional departures (from prison to probation) at higher rates than the overall average.

## County Attorney Firearms Reports (p. 39)

County attorneys must collect and report disposition information for specified crimes when the defendant allegedly possessed or used a firearm, and the Commission must summarize and analyze that information in this report. In fiscal year 2023, county attorneys reported disposing of 1,805 such firearms cases, the largest number since the reporting mandate began.

# The Commission's Work in 2023

The Minnesota Sentencing Guidelines Commission is a thirteen-member body, which the Legislature expanded from eleven members in 2023.<sup>9</sup> The Commission is comprised of the Chief Justice or her designee; a judge of the Court of Appeals appointed by that court's Chief Judge; a district court judge appointed by the Judicial Council; the Commissioner of Corrections or his designee; and nine members appointed by the Governor. The Governor's nine appointees are: a public defender; a county attorney; a peace officer; a probation officer or supervised release officer; someone working for an organization that provides treatment or rehabilitative services for those convicted of felony offenses; an academic with a background in criminal justice or corrections; and three public members, of whom one must have been a felony crime victim or a victims' advocate, and one must have been formerly convicted of and discharged from a felony sentence. The Governor also designates the Chair.

With Governor Tim Walz's September 6, 2023, appointments, six of the Commission's thirteen members are new to the Commission. The Governor reappointed Assistant Commissioner of Corrections Kelly Lyn Mitchell—the Commissioner of Corrections' designee—as the Commission's Chair.<sup>10</sup> The Governor also appointed:

- Ujamaa Place CEO Christopher E. Crutchfield (in the new treatment or rehabilitative services provider seat);
- University of Minnesota Law School Professor Emeritus Richard Frase (in the new academic seat);
- Wadena County Attorney Kyra Ladd;
- Chief Appellate Public Defender Cathryn Middlebrook;
- Stillwater Police Chief Brian Mueller;<sup>11</sup>
- Hennepin County Career Probation Officer Latonya Reeves;<sup>12</sup> and
- Public members Brooke Morath, Tim Morin,<sup>13</sup> and Surya Saxena.

The three judicial appointees are:

- First Judicial District Court Judge David Knutson;
- Vice-Chair and Court of Appeals Judge Michelle A. Larkin;<sup>14</sup> and
- Associate Supreme Court Justice Gordon L. Moore, III (the designee of Chief Justice Natalie Hudson).

One of the fundamental responsibilities of the Commission is to maintain the Guidelines by amending them in response to legislative changes, case law, and issues raised by various parties. The Commission met eleven times

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<sup>9</sup> [2023 Minn. Laws ch. 52, art. 6, § 1](#). In addition to adding two governor-appointed members—the treatment or rehabilitative-services provider and the academic—the 2023 law required one of the three public members to have been formerly convicted of and discharged from a felony sentence, among other changes. The law also modified the appointment authority of the court of appeals and district court members, both having formerly been appointed by the Chief Justice.

<sup>10</sup> On August 8, 2023, Commissioner of Corrections Paul Schnell designated Chair Mitchell to succeed him on the Commission. Before that, Chair Mitchell had been serving as a public member; Mr. Saxena has succeeded her in that capacity.

<sup>11</sup> Replacing Minneapolis Police Officer Mohamoud Ibrahim.

<sup>12</sup> Replacing Vice-Chair and Hennepin County Community Corrections & Rehabilitation Supervisor Valerie Estrada.

<sup>13</sup> This seat is newly reserved for someone formerly convicted of and discharged from a felony sentence. The predecessor seat had been vacated on January 13, 2023, upon Tonja Honsey's resignation.

<sup>14</sup> The Commission unanimously elected Judge Larkin to the office of Vice-Chair on October 6, 2023.

in 2023 to fulfill its statutory responsibilities of improving the Sentencing Guidelines and conducting ongoing research into sentencing practices and other matters relating to the improvement of the criminal justice system. In addition, the Commission held one public hearing, on July 20.

The Commission holds public meetings monthly in Saint Paul, with some Commission members and members of the public participating by telephone or Webex interactive technology. The Commission publishes videos of these hybrid meetings on its [YouTube channel](#) and links to them from its website's meeting page: <https://mn.gov/sentencing-guidelines/meetings/previous>.

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## 2022 Sex Trafficking Review – Expansion to Prostitution Offenses

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The 2021 Legislature directed the Commission to review sex trafficking offenses. The Commission completed that review in 2022 and, in January 2023, proposed several Sentencing Guidelines changes in response to the review. At that time, the Commission reported to the Legislature that it had informally expanded the scope of the review to include prostitution sentencing guidelines, and expressed an intent to continue that work in 2023.

Although the Commission did begin a discussion of prostitution sentencing guidelines in 2023, its agenda was quickly dominated by a very active legislative session and, subsequently, the commencement of a multiyear, comprehensive review of the Sentencing Guidelines. The Commission proposes no changes to how the Sentencing Guidelines treat prostitution offenses—nor any other changes to the 2023 Sentencing Guidelines—in this year's report.

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## Responding to the Work of the 2023 Minnesota Legislature

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The 2023 legislative session produced significant changes in the areas of crime and sentencing. Nearly two dozen felonies were created, restructured, enhanced, or amended. Much of the Commission's work in the first half of 2023 was devoted to its response to these sweeping changes.

On July 27, 2023, after several meetings and a public hearing, the Commission modified the Sentencing Guidelines in response to the historic 2023 legislative session. These numerous changes, which took effect August 1, 2023, are summarized in Table 1 (p. 7) and reported in Appendix 1 (p. 45). Three highlights follow.

### Codification of Five-Year Probation Cap

In 2020, the Commission established within the Sentencing Guidelines a presumptive five-year limit on probation lengths, with exceptions for listed homicide and sex offenses. The 2023 Legislature codified this cap,<sup>15</sup> with four differences:

- The statutory five-year cap is firm, not merely presumptive.
- The Legislature added harassment and stalking to the exception list.
- The statute treats some felony offenses with statutory maximums below five years differently than they were treated under the Sentencing Guidelines.

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<sup>15</sup> [2023 Minn. Laws ch. 52, art. 6, §§ 13–15](#).

- The statutory cap applies to all current and future sentences, and contains a process for retroactive applicability.

In response to the 2023 legislation, the Commission repealed the Sentencing Guidelines' presumptive five-year probation cap. The Commission also recommends a change to the statute, found on page 10.

### **Required Review of Labor Trafficking Rankings**

The Sentencing Guidelines assign severity-level rankings to most, but not all, felony offenses. Some crimes—typically those that are infrequently prosecuted, or are broadly defined to encompass a wide range of conduct—are unranked, with individual ranking decisions left to the sentencing court in a particular case. Prior to 2023, labor trafficking was one such unranked offense.

The 2023 Legislature restructured labor trafficking and directed the Commission to consider ranking the offense.<sup>16</sup> After considering the restructured penalties, the Commission ranked the offense as follows:

- Labor trafficking that proximately causes death is ranked at severity level (SL) 9.
- Labor trafficking that proximately causes great bodily harm is ranked at SL 8.
- Labor trafficking involving a minor victim is ranked at SL 8.
- Labor trafficking over an extended period of time is ranked at SL 7.
- Otherwise, labor trafficking is ranked at SL 6.

The presumptive sentences associated with these rankings are shown on the sentencing grid in Appendix 2.1 (p. 120).

### **Carjacking**

The 2023 Legislature defined a new crime of carjacking, with three degrees of severity.<sup>17</sup> In terms of elements and penalties, the three new crimes are identical to the three existing robbery crimes, except that the property taken is specified to be a motor vehicle.

The Commission first considered ranking each carjacking crime the same as its identical robbery counterpart, and held a public hearing on that proposal. After considering the extensive public input it received during the public-hearing process, however, the Commission instead chose to rank each carjacking offense one severity level higher than its robbery counterpart. Thus, for example, while robbery at gunpoint (first-degree aggravated robbery) is ranked at SL 8, the Commission ranked carjacking at gunpoint (first-degree carjacking) at SL 9.

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<sup>16</sup> [2023 Minn. Laws ch. 27](#).

<sup>17</sup> [2023 Minn. Laws ch. 52, art. 4, § 6](#).

## Other Changes to the Sentencing Guidelines

These highlights are only three examples of the Commission’s responses to crime laws enacted during the 2023 legislative session. All such changes to the Sentencing Guidelines are described in Table 1, below, with the text of each change reported in Appendix 1 (p. 45).<sup>18</sup> All changes shown in Table 1 took effect August 1, 2023.<sup>19</sup>

*Table 1. Summary of Adopted Proposals Resulting from Legislative Amendments to Crime Laws Affecting the Guidelines – 2023 Regular Session, Effective August 1, 2023*

No.	Adopted Modification	Resulting from 2023 Minn. Laws	As Shown in Amendments to Guidelines Sections	With Respect to Minn. Stat. §
1.	Make conforming changes related to the codification of five-year probation lengths	<a href="#">ch. 52, art. 6, §§ 13–15</a>	1.B & 2.D.1, and to section 3.A and associated commentary	--
2.	Make conforming, corrective, and editorial changes related to the redefinition of a felony	<a href="#">ch. 52, art. 6 §§ 4–7, 9, &amp; 16</a>	2.B.2.c, 2.B.5.b, 2.C.1, 2.G, & 4; and to comments 2.B.502, 2.E.02, & 2.F.103	--
3.	Make conforming changes related to bias crimes	<a href="#">ch. 52, art. 4, §§ 4, 5, 13, 14, &amp; 18</a>	2.D.3.b(11) & Comment 2.D.308	--
4.	Rank Money Transmitter Regulations at SL 1	<a href="#">ch. 57, art. 3, § 53</a>	5.A & 5.B	53B.66
5.	Rank the first-degree versions of cannabis possession, cannabis sale, and cannabis cultivation at SL D2; make conforming, corrective, and editorial changes related to failure to affix tax stamp crimes, controlled substance crime in the fifth degree, and sale of synthetic cannabinoids; add new appendix with cannabis threshold tables	<a href="#">ch. 63</a>	5.A & 5.B and new Appendix 5	152.0263, 152.0264, 152.0265, 152.027, 297D.09

<sup>18</sup> Appendix 1 reports all changes made to the Sentencing Guidelines effective August 1, 2023, not just those in response to the 2023 legislative session. The Commission submitted several proposed changes to the Legislature on January 13, 2023, such as ranking aggravated sex trafficking offenses. Because the Legislature took no action to block these proposed changes, they also took effect on August 1, 2023.

<sup>19</sup> Modifications that were legislatively mandated, legislatively authorized, or relate to crimes created or amended by the Legislature in the previous session need not be submitted to the Legislature before they may take effect. [Minn. Stat. § 244.09, subd. 11.](#)

No.	Adopted Modification	Resulting from 2023 Minn. Laws	As Shown in Amendments to Guidelines Sections	With Respect to Minn. Stat. §
6.	Add Family and Medical Benefit Fraud to the Theft Offense List in section 7, resulting in a ranking of SL 3 for a monetary amount of over \$5,000, or a ranking of SL 2 for a monetary amount of \$5,000 or less	<a href="#">ch. 59, art. 1, § 30</a>	5.A, 5.B, & 7	268B.185
7.	Rank Catalytic Converter Crime (Over 70 Converters) at severity level (SL) 6; Rank Catalytic Converter Crime (11–70 Converters) at SL 3; Rank Catalytic Converter Crime (3–10 Converters) at SL 2	<a href="#">ch. 15</a>	5.A & 5.B	325E.21
8.	Rank Carjacking in the first, second, and third degrees at SL 9, SL 7, and SL 6, respectively; List Carjacking in section 6; List Carjacking 1st Degree in section 8	<a href="#">ch. 52, art. 4, § 6</a>	5.A, 5.B, 6, & 8	609.245 & 609.247
9.	Make conforming and editorial changes related to the enumeration of kidnapping’s aggravating circumstances	<a href="#">ch. 52, art. 4, § 7</a>	5.A, 5.B, & 8	609.25
10.	Rank Labor Trafficking (Death) at SL 9; Rank Labor Trafficking (Great Bodily Harm) at SL 8; Rank Labor Trafficking (Minor Victim) at SL 8; Rank Labor Trafficking (Extended Period of Time) at SL 7; Rank Labor Trafficking (other) at SL 6; List all forms of Labor Trafficking except the SL 6 and SL 7 offenses in section 8	<a href="#">ch. 27</a>	5.A, 5.B, & 8	609.282
11.	Rank Organized Retail Theft (Over \$5,000) at SL 4; Rank Organized Retail Theft (\$1,001–\$5,000, or \$501–\$1,000 and Prior Convictions) at SL 3; Rank Organized Retail Theft (\$501–\$1,000, or \$500 or Less and Prior Convictions) at SL 1	<a href="#">ch. 52, art. 4, § 10</a>	5.A & 5.B	609.522
12.	Rank Burglary 3rd Degree (Shoplifting Contrary to Trespass Notice, 2nd or Subsequent) at SL 3 and make related conforming and editorial corrections	<a href="#">ch. 52, art. 4, §§ 11 &amp; 12</a>	5.A & 5.B	609.582

No.	Adopted Modification	Resulting from 2023 Minn. Laws	As Shown in Amendments to Guidelines Sections	With Respect to Minn. Stat. §
13.	Rank Machine Gun, Trigger Activator, or Conversion Kit at SL 8 and make related conforming changes	<a href="#">ch. 52, art. 4, § 16</a>	5.A & 5.B	609.67
14.	Rank Surreptitious Photography Under or Around Clothing (3rd or Subsequent Violation) at SL 3, list the offense in section 6, and make related conforming and editorial changes	<a href="#">ch. 52, art. 4, § 17</a>	5.A, 5.B, & 6; and Appendix 3	609.746
15.	Rank Fictitious Emergency Call (Substantial Bodily Harm) at SL 3	<a href="#">ch. 52, art. 4, § 19</a>	5.A, 5.B, & 6	609.78
16.	Rank False Statement to Obtain Firearm Transferee Permit at SL 1	<a href="#">ch. 52, art. 13, § 1</a>	5.A & 5.B	609.7131
17.	Leave unranked Using Deep Fake Technology to Influence an Election (2nd or Subsequent Violation)	<a href="#">ch. 58, § 2</a>	5.A & 5.B	609.771
18.	Rank Nonconsensual Dissemination of a Deep Fake Depicting Intimate Parts or Sexual Acts at SL 3, list the offense in section 6, and make a related editorial change	<a href="#">ch. 58, § 3</a>	5.A, 5.B, & 6	617.261 & 617.262

## Beginning the Comprehensive Review of the Sentencing Guidelines

Acting on Governor Walz’s recommendation, the 2023 Legislature funded phase 1 of a comprehensive review of the Minnesota Sentencing Guidelines, which will take place throughout the current biennium.<sup>20</sup> Established in 1980, the Sentencing Guidelines have been updated many times and reviewed in parts, but—until now—never comprehensively.

Following the new Commission’s appointment in September 2023, the Commission has had four meetings focused on the comprehensive review. The Commission’s early work has been in three areas:

First, with the assistance of consultants from the state’s Management Analysis and Development (MAD) group, the Commission has begun formulating the objectives and principles that will govern its comprehensive review.

<sup>20</sup> [2023 Minn. Laws ch. 52, art. 2, § 2\(d\)](#). Phase 1 is funded for the current biennium, which ends on June 30, 2025.

On January 11, 2024, the Commission unanimously adopted the review’s objectives—that, because of the comprehensive review:

1. The public and Commission are confident that the review process was transparent, inclusive, and thoughtfully executed.
2. Practitioners find the Guidelines are easier to understand and use.
3. The presumptive sentences for offenses are proportionate and fair.
4. Relative to the current Guidelines, the revised Guidelines contribute to:
  - Improved public safety.
  - More consistent sentencing.
  - Decreased disparities.

Second, the Commission is working with MAD on developing a plan for stakeholder engagement, which will be a significant part of the comprehensive review.

Third, the Commission has begun working with an elite team of academic researchers from the University of Minnesota who are willing to provide significant research support to the comprehensive review. Arnold Ventures, a national philanthropy, has expressed willingness to fund this powerful research support.

The Commission expects the comprehensive review to dominate its agenda for years to come, and looks forward to providing ongoing progress updates to the Legislature.

## Recommended Changes to Criminal Law

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The Legislature has given the Sentencing Guidelines Commission a standing mandate to, from time to time, make recommendations to it regarding changes in the Criminal Code, criminal procedures, and other aspects of sentencing.<sup>21</sup> In this report, the Commission respectfully makes seven such recommendations to the Legislature. The Commission was unanimous in its adoption of all seven recommendations.

The first five recommendations were newly adopted in 2023:<sup>22</sup>

### 1. Apply five-year probation cap exceptions to attempts.

- **Recommendation:** Amend the list in Minn. Stat. § 609.135, subd. 2(b), to include attempts and conspiracies, and expand the list to include attempts and conspiracies to violate §§ 609.185 and 609.2661.
- **Purpose:** To allow probation periods of up to the statutory maximum for attempted homicide and sex offenses.
- **Background:** The 2023 Legislature established a five-year statutory cap on felony probation lengths, with exceptions for several listed offenses—chiefly homicide and sex offenses. The exception list does not explicitly mention attempts and conspiracies. Without such language, the Commission has been alerted to the possibility that courts may construe the statutory exception list as excluding attempts or

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<sup>21</sup> [Minn. Stat. § 244.09, subd. 6.](#)

<sup>22</sup> The Commission adopted the first four recommendations on September 7, 2023. It adopted the fifth on February 9, 2023.

conspiracies (see *State v. Noggle*, 881 N.W.2d 545 (Minn. 2016)). If so, a court considering a probationary sentence for an attempted homicide or attempted sex offense would be forced to choose between imposing a probation term of not more than five years and imposing an executed prison sentence.

## 2. Correct the sentence cap for juvenile repeat or heinous sex offenses.

- **Recommendation:** Amend the reference at the end of Minn. Stat. § 609.3455, subd. 5, to refer to a subdivision that exists.
- **Purpose:** To correct a statutory error and clarify the maximum lawful term of imprisonment for certain repeat or heinous juvenile sex offenders.
- **Background:** Minn. Stat. § 609.3455, subds. 3 & 4, require a life sentence for certain repeat or heinous sex offenses—and, for such a life sentence, subd. 5 requires a specified minimum term of imprisonment based on the Sentencing Guidelines. In 2023, this required minimum term of imprisonment was capped, for juvenile offenders, at “the applicable minimum term of imprisonment described in subdivision 4b”—but there is no “subdivision 4b” within § 609.3455. (Perhaps Minn. Stat. § 244.05, subd. 4b, was intended.)

## 3. Correct the targeted misdemeanor list.

- **Recommendation:** Amend the list found in Minn. Stat. § 299C.10, subd. 1(e), to reconcile the citation of the most recent addition to the list to its name.
- **Purpose:** To correct a statutory inconsistency and ambiguity that may confuse booking requirements and felony sentencing.
- **Background:** A targeted misdemeanor is a misdemeanor crime requiring booking, and a past conviction for a targeted misdemeanor may increase a person’s criminal history score under the Sentencing Guidelines. A 2023 change added section “609.749 (obscene or harassing telephone calls)” to the targeted misdemeanor list—but Minn. Stat. § 609.749 contains no misdemeanors, and “obscene or harassing telephone calls” is the name of the offense described in § 609.79.

## 4. Complete “mandatory life sentence” list in presentence investigation statute.

- **Recommendation:** Amend the definition of “mandatory life sentence” found in Minn. Stat. § 609.115, subd. 2a, to include reference to § 609.2661.
- **Purpose:** To complete the statutory list and ensure accurate MSGC sentencing data collection.
- **Background:** After any felony conviction, a court must cause a sentencing worksheet to be completed and forwarded to MSGC—even when a mandatory life sentence is required by law. The statute setting forth this requirement lists nearly every “mandatory life sentence” offense, but omits one: first-degree murder of an unborn child.

## 5. Clarify whether substantial or great bodily harm is a necessary element of deprivation of a vulnerable adult.

- **Recommendation:** Clarify the elements and penalties of the offense defined in Minn. Stat. § 609.233, subd. 1a, and penalized in subd. 3.

- **Purpose:** To clarify whether a caregiver may commit the felony crime of deprivation of a vulnerable adult without inflicting substantial or great bodily harm.
- **Background:** While the offense’s elements (subd. 1a) do not require the deprivation to cause substantial or great bodily harm, the offense’s only stated penalty provisions (subd. 3) are linked to such harm resulting. It is therefore unclear whether the Legislature intends substantial or great bodily harm to be a necessary element of the offense.

In addition to its 2023 recommendations, two of the Commission’s earlier unanimous recommendations to the Legislature remain outstanding:

## 6. Reconcile inconsistent age thresholds for prostitution.

- **Recommendation:** Replace “at least 13” with “at least 14” in Minn. Stat. § 609.324, subd. 1(b)(3).
- **Purpose:** To bring coherence to the prostitution statute’s age thresholds and eliminate confusion in investigating, prosecuting, and sentencing a person who hires someone believed to be a 13-year-old child for sex.
- **Background:** When the 2021 Legislature globally updated criminal sex-related “under/at least 13” age thresholds to “under/at least 14,” it apparently missed one. As a result, the prostitution statute now provides two conflicting penalties for the same crime—hiring a person believed to be a 13-year-old child for sex.

## 7. Reconcile a statutory violent crime list with first-degree witness tampering.

- **Recommendation:** Amend the “violent crime” list found in Minn. Stat. § 609.1095, subd. 1(d), either by adding aggravated first-degree witness tampering (§ 609.498, subd. 1b) to the list, or by replacing first-degree witness tampering (§ 609.498, subd. 1) with aggravated first-degree witness tampering.
- **Purpose:** To reconcile this statutory “violent crime” list, which is used to enhance penalties of subsequently committed violent crimes, with the different degrees of violence inherent in these two forms of witness tampering.
- **Background:** The statutory “violent crime” list includes the offense of first-degree witness tampering, but excludes the more-violent offense of *aggravated* first-degree witness tampering, which is incoherent.

# MSGC Staff’s Work in 2023

The work of the Commission—described on the preceding pages—is directly facilitated by the support and research of its seven-person staff. This section describes the additional work of MSGC staff throughout 2023 to further the Commission’s goals and purposes. In particular, staff assists the Commission in fulfilling its statutory charter to serve as the state’s clearinghouse and information center for the collection, preparation, analysis, and dissemination of information on sentencing practices.<sup>23</sup>

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<sup>23</sup> [Minn. Stat. § 244.09](#), subd. 6.

Most MSGC staff continue to telework most of the time, with staff's in-office presence averaging about 25 percent of work hours. In addition, staff continues to facilitate hybrid Commission meetings in-person. Staff maintains business hours of 8:00 a.m. to 4:30 p.m., Monday through Friday, and is available by mail, email, and telephone.

In 2023, after 39 years of state service, MSGC's longtime senior research analysis specialist, Anne Wall, retired. With that retirement and other staff attrition, MSGC's research unit was quite understaffed during most of 2023. The 2023 Legislature, however, funded a new research supervisor position, and that supervisor was hired in late 2023. Agency staff anticipate resolving MSGC's research staffing shortfall in early 2024.

### **Monitoring Sentencing Data**

One of the primary functions of the MSGC staff is to monitor sentencing practices. The monitoring system is designed to maintain data on felony sentences under the Guidelines.<sup>24</sup> A case is defined when a sentencing worksheet is received from the probation officer and matched with sentencing data from the District Court. As part of the agency's core functions, MSGC staff collected and analyzed data of over 20,000 felony cases sentenced in 2022. Additionally, staff published the annual edition of the Sentencing Guidelines and Commentary.

### **Training & Assistance**

Staff conducted seventeen online trainings in 2023, as well as three live trainings including the Department of Corrections' Agent Academy, the Minnesota County Attorneys Association monthly CLE series, and the Minnesota Society for Criminal Justice continuing education classes. In October, staff relaunched MSGC's monthly "Lunch and Learn" sessions, in which an individual section of the Guidelines is addressed. On average, the staff fields 100 phone calls and emails monthly helping people apply the Sentencing Guidelines.

### **Website & Data Requests**

The Commission's website receives over 10,000 views each month. Most visitors were new, and most visitors were interested in accessing the Sentencing Guidelines. The website includes easily accessible email signup for upcoming trainings, public hearing notices, and Commission meeting notices. Personalized information requests can be submitted online and staff typically responds within two weeks.

One of the important ways in which the Commission's staff works with fellow agencies and criminal justice practitioners across the state is researching and compiling statistical data in response to information requests. MSGC staff responded to over 500 data requests which totaled over 12,000 hours.

Requests are most often made by lawyers or corrections agents to show evidence of specific sentencing practices to the court. However, the requests are also made by academics, students, other state agencies, legislative staff, law enforcement, and the press for other purposes. The topics range from departure data for a

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<sup>24</sup> Beginning in 2005 and 2006, MSGC began maintaining data on life sentences, even if not governed by the Guidelines.

single type of offense within a given county to comparative data on how an offense has been sentenced from one jurisdiction to another.

## Collaboration with Criminal Justice Agencies

The staff's knowledge of felony sentencing policy and practice makes it a valued contributor to criminal justice policy discussions. Each year, Commission staff works with the Department of Corrections to generate prison bed projections. In 2023, MSGC staff served on the Executive Committee of the National Association of Sentencing Commissions, the Criminal and Juvenile Justice Information Advisory Group, and the Aiding and Abetting Felony Murder Task Force formed following the 2023 Legislative Session. Staff also presented to the Criminal Justice Institute and conducted trainings arranged by the Department of Corrections.

## Fiscal Impact Statements & Demographic Impact Statements

During the 2023 legislative sessions, staff assisted the Legislative Budget Office in preparing fiscal impact statements for 66 crime bills. These impact statements include long-term fiscal considerations for projected increases or decreases in felony populations, the estimated net increase in state prison beds, and the impact on confinement in local jails. Staff provided all requested information within the time requirements set by the Legislature.

In 2008, MSGC staff began providing the Minnesota Legislature demographic impact statements<sup>25</sup> on certain crime bills when such a statement was anticipated to be helpful to the Legislature. When, in the course of preparing a fiscal impact statement, MSGC staff identifies a bill that meets its criteria for preparing a demographic impact statement, it prepares such a statement and sends it to the chairs of the crime committees in the Senate and the House. This is done separately from the required fiscal impact statements. The full demographic impact statements are available on the MSGC web site.<sup>26</sup>

In the 2023 Legislative Sessions, five bills met MSGC's criteria for preparing a demographic impact statement:

- [House File 2651](#) (enhancing the penalty for physically assaulting a peace officer from a gross misdemeanor to a felony);
- [House File 100 \(version 8A\)](#) (amending existing criminal penalties and thresholds for marijuana sale and possession, legalizing some cannabis possession and sale, and transferring marijuana to controlled substance Schedule III);
- [House File 1406](#) (adding requirements for criminal liability of accomplices to first- and second-degree felony murder, and establishing conditions for retroactive application of these changes);
- [House File 216](#) (requiring aggravated or consecutive sentences for certain violent offenders, and requiring certain offenders to serve the entire pronounced sentence in custody); and
- [House File 615 \(version 1UE\)](#) (creating new fentanyl thresholds for controlled substance crimes similar to those that now exist for heroin).

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<sup>25</sup> These had previously been referred to as "racial impact statements."

<sup>26</sup> Full statements are available at <https://mn.gov/sentencing-guidelines/reports/#1>.

## 2022 Sentencing Practices Data Summary

The following data summary gives a high-level review of sentencing practices in 2022. Visit [mn.gov/sentencing-guidelines/reports](https://mn.gov/sentencing-guidelines/reports) for more in-depth staff reports.

The Minnesota Sentencing Guidelines apply to all felony sentences except life sentences. The recommended sentence under the Guidelines is first based on the severity of the offense and second based on criminal history. Minnesota's Guidelines are based on a grid structure. The vertical axis represents the severity of the offense with the least severe offenses on the bottom and most severe offenses on the top. The horizontal axis represents the defendant's criminal history and includes points for: variously weighted prior felony sentences; some prior misdemeanor and gross misdemeanor sentences; limited prior serious juvenile offenses; and "custody status"—if the current offense was committed while confined or under community supervision. The recommended Guidelines sentence is called the "presumptive sentence" and is generally found in the cell of the grid where the criminal history score and severity level intersect. The numbers in the cells are called the "presumptive duration" and give a recommendation for the prison sentence length in months. Whether the Guidelines recommend prison is called the "presumptive disposition." Generally, cells in the lower half of the grid are shaded and the Guidelines recommend a non-prison sentence (a "stayed" sentence) and cells in the upper half of the grid are not shaded and the Guidelines recommend a prison sentence (a "commitment" sentence). In most cases, the Guidelines are followed and the recommended sentence is applied; however, in some cases there is a departure.

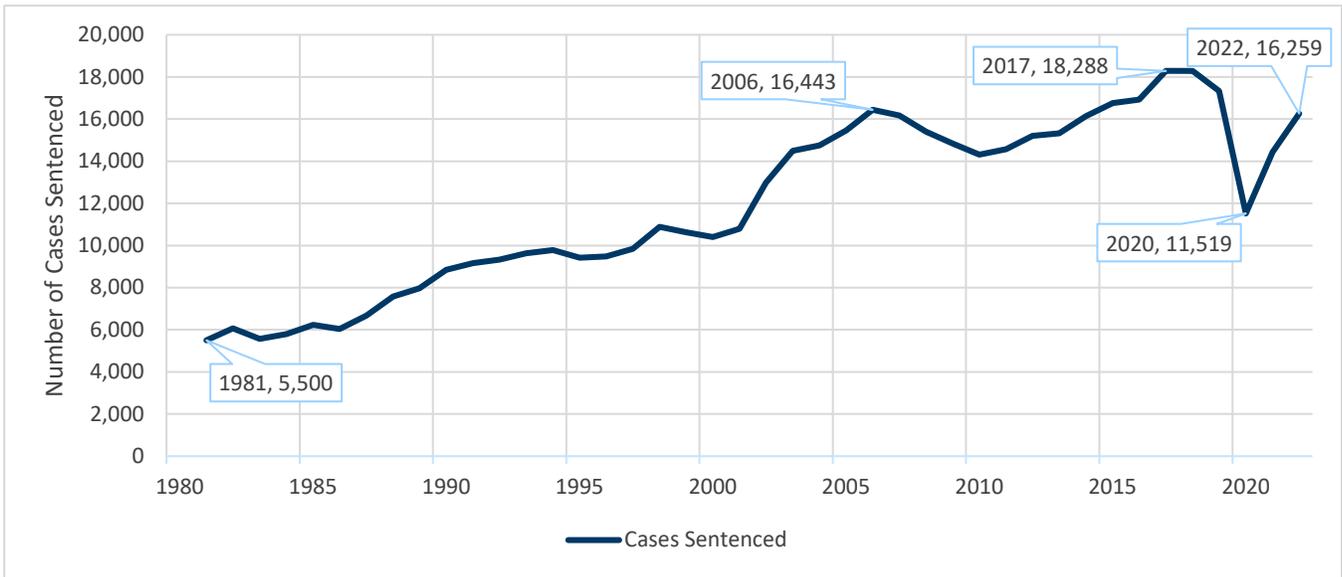
As you read this summary, keep in mind that these are descriptive statistics that describe and summarize patterns in the data. There is no discussion about the cause. Also, be aware of the effect of differences in offense severity and criminal history when evaluating and comparing sentencing practices. This is particularly important when comparing cases by factors such as gender, race and ethnicity, and judicial district. For example, if in a particular district the proportion of serious person offenses is higher, the imprisonment rate for that district will likely be higher than for districts with predominantly lower-severity offenses.

### Felony Case Volume and Distribution

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Since the implementation of the Sentencing Guidelines in 1980, the number of felony cases sentenced has continued to grow. In 2022, 16,259 people were sentenced for felony offenses in Minnesota, which is a 13 percent increase over 2021 and a 41 percent increase over 2020. The change in case volume over time is shown in Figure 2.

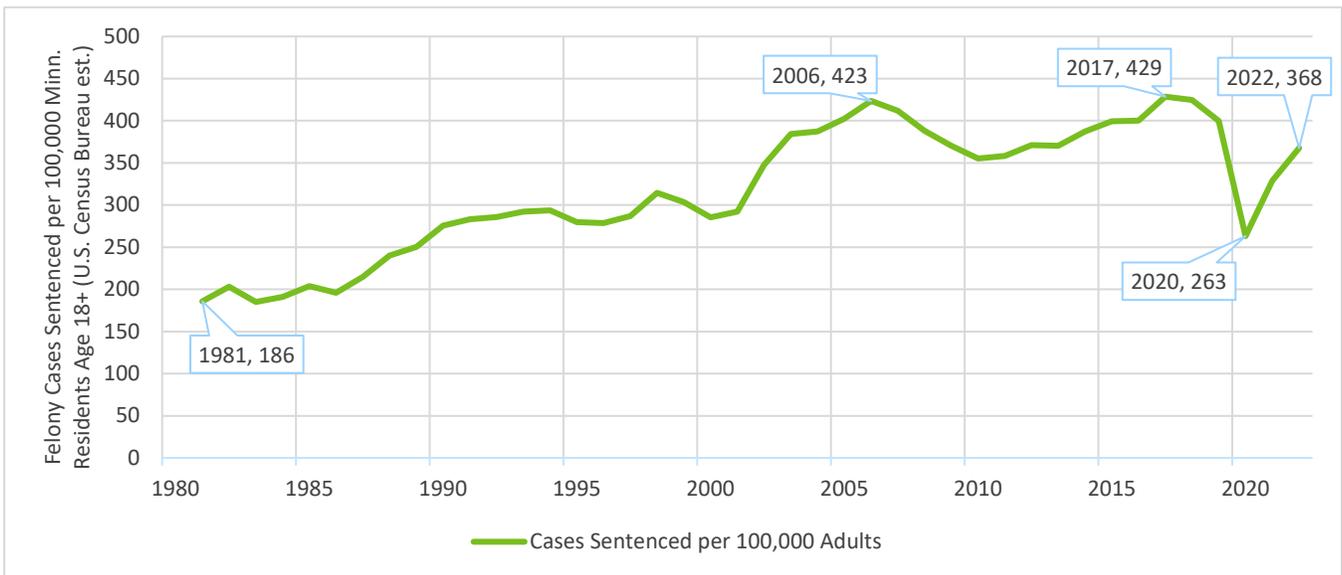
Figure 2. Number of Cases Sentenced for Felony Convictions, 1981–2022



While Minnesota’s population also rose during the decades shown in Figure 2, that rise does not account for the entire increase in felony sentences seen. As

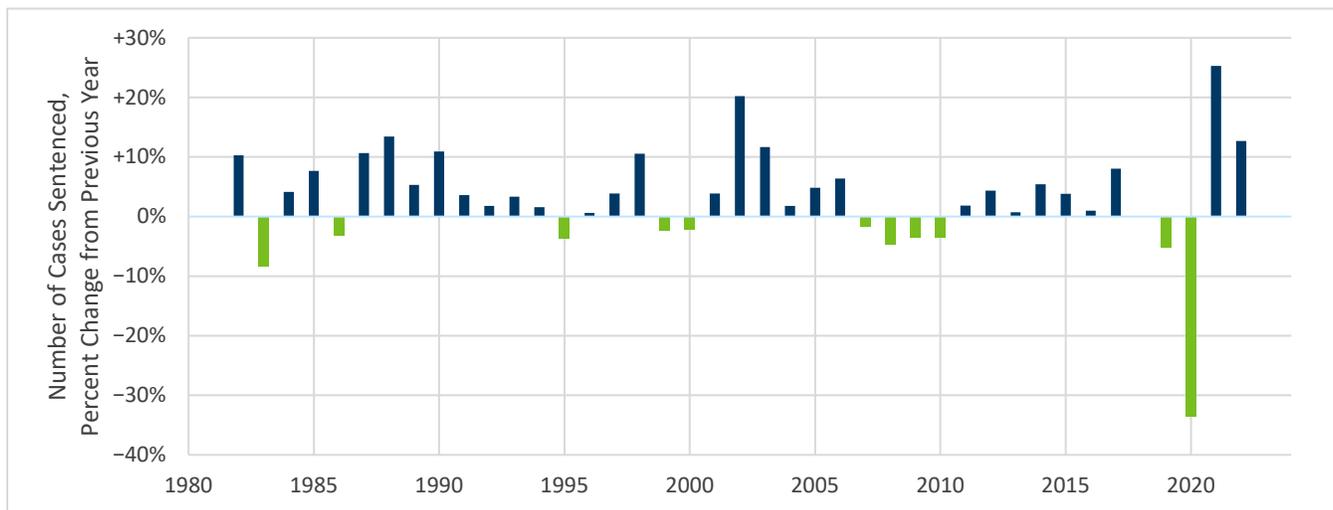
Figure 3 illustrates, the number of Minnesota’s felony cases sentenced has grown relative to its population, from 186 felony cases sentenced per 100,000 adult Minnesotans in 1981, to 368 felony cases per 100,000 in 2022.

Figure 3. Felony Cases Sentenced per 100,000 Adult Minnesotans, 1981–2022



Each annual percent change in the number of cases sentenced is displayed in Figure 4.

Figure 4. Annual Percent Change in Number of Cases Sentenced for Felony Convictions, 1982–2022



## Change in Case Volume by Offense Type

The volume of all offense categories increased in 2022 from 2020 and 2021. By category, in 2022, this increase ranged from nine percent (property offense) to 46 percent (weapon offenses). The second-largest percentage rise in case volume was seen in the “other” offense category (*e.g.*, fleeing a peace officer in a motor vehicle), which was up 24 percent.

Figure 5 shows felony case volume by offense type. In 2021 and 2022, all offense categories increased after a dramatic decrease in 2020.<sup>27</sup> While cases are divided into seven offense types, the first three offense categories (in bold) generally total at least 85 percent of each year’s case volume:

- **Person offenses** (including criminal sexual conduct (CSC));
- **Drug offenses;**
- **Property offenses;**
- Felony driving while impaired (DWI);
- Non-CSC sex offenses<sup>28</sup>;
- Weapon offenses<sup>29</sup>; and

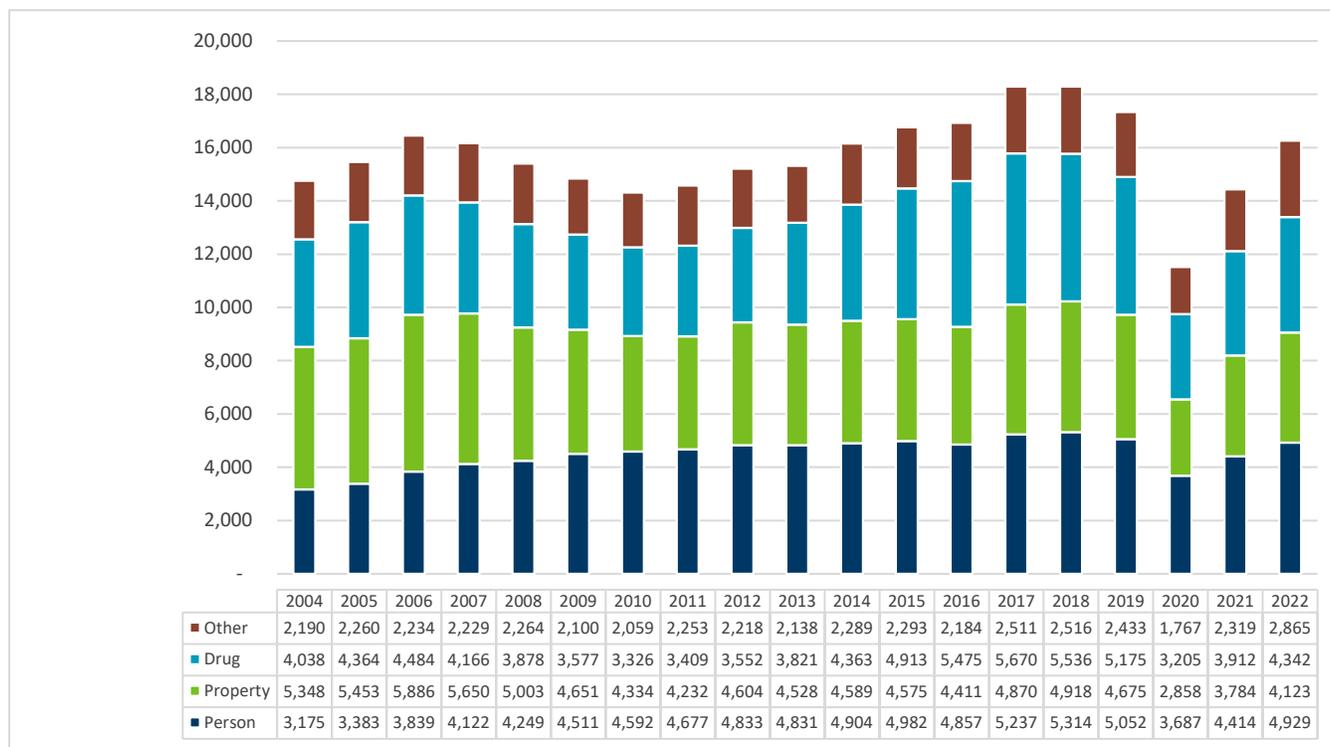
<sup>27</sup> Due to the COVID-19 health pandemic, case volume data in 2020 and 2021 are not typical and should be reviewed in that context. The Minnesota Judicial Branch limited in-person judicial proceedings in 2020 and reported a 32-percent increase in its major criminal case backlog due to the pandemic. Because 2020 and 2021 appear to have been atypical years, the data presented is assumed to be anomalous.

<sup>28</sup> “Non-CSC sex offenses” are offenses on the Sex Offender Grid other than criminal sexual conduct—chiefly failure to register as a predatory offender and possession and dissemination of child pornography.

<sup>29</sup> “Weapon” offenses are possession of a firearm by a felon convicted of a crime of violence, discharge of firearm, and other weapon-related offenses.

- Other offenses.<sup>30</sup>

Figure 5. Number of Cases Sentenced by Offense Type, 2004–2022



### Person Offenses

The volume of person offenses increased every year from 2004 to 2012. In 2019, the number decreased by almost five percent. In 2022, person offenses made up the largest percent of all cases at 30 percent.

### Drug Offenses

Drug offenses made up the second largest percent of cases at 27 percent. Drug offenses grew for seven consecutive years from 2010 to 2017, making drug offenses the largest offense category from 2016 through 2019. That changed in 2020, when person offenses reclaimed the status of the largest offense category.

### Property Offenses

Property offenses made up 25 percent of the share. The property offense category has declined in most years since 2006 when it made up 36 percent of all cases.

<sup>30</sup> “Other” offenses include fleeing police in a motor vehicle, escape, voting violations, tax evasion, and miscellaneous offenses of less frequency. The category formerly included DWI (before 2004) and non-CSC sex offenses and weapon offenses (before 2010).

### *Felony DWI*

The number of felony DWI cases peaked in 2004, at 860, and has declined most years since. The 2022 volume of 583 cases was 68 percent of that peak volume. In the five years between 2012 and 2017, the numbers fluctuated sharply, possibly in connection with the timing of legal challenges to DWI laws and evidence-collection practices.<sup>31</sup>

### *Non-CSC Sex Offenses*

The non-CSC Sex Offense category are offenses on the Sex Offender Grid other than criminal sexual conduct (chiefly failure to register as a predatory offender and possession and dissemination of child pornography). The category increased by 14 percent in 2022. The number of failure to register as a predatory offender cases was almost identical in 2021 (293 cases) and 2022 (294 cases), but child pornography cases increased from 88 in 2021 to 140 in 2022.

### *Weapon Offenses*

The number of weapon offenses sentenced increased 45.5 percent from 2021 (580 cases) to 2022 (844 cases). Ineligible felon in possession of firearm/ammunition accounted for 79.6 percent of all weapon offenses.

### *Other Offenses*

Cases in the other offenses category included fleeing a peace officer, escape, tax offenses, aiding an offender – accomplice after the fact, and aiding an offender to avoid arrest. Fleeing a peace officer, the most common offense in this category, increased by 26 percent in 2022.

## **Distribution of Cases by Sex, Race/Ethnicity, and Judicial District**

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Table 2 compares, by the categories of sex, race or ethnicity, and judicial district, the population of felony cases sentenced in 2022 with the estimated state adult population on July 1. Within those comparison categories, Table 2 also calculates the rate of cases sentenced per 100,000 Minnesota adult residents.

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<sup>31</sup> In 2015, Minnesota’s Supreme Court said that it was constitutional to obtain a breath test without a warrant (*State v. Bernard*, 859 N.W.2d 762 (Minn. 2015)). In 2016, the Court said law enforcement could only obtain samples of a person’s blood or urine with a warrant (*State v. Thompson*, 886 N.W.2d 224 (Minn. 2016)).

Table 2. Cases Sentenced, 2022, by Sex, Race/Ethnicity, and Judicial District, Compared to 2022 Estimated Adult Population

	MSGC Category	People Sentenced in 2022		U.S. Census Category	2022 Estimated Adult Population		People Sentenced per 100,000
		Number	Percent		Number	Percent	
	Male	13,237	81.4	Male	2,209,101	49.9	599
	Female	3,022	18.6	Female	2,213,921	50.1	136
Race & Ethnicity	White	9,025	55.5	White*	3,651,116	82.5	247
	Black	4,309	26.5	Black or African American*	312,836	7.1	1,377
	American Indian	1,508	9.3	American Indian*	68,465	1.5	2,203
	Hispanic**	925	5.7	Hispanic**	219,076	5.0	422
	Asian	488	3.0	Asian/Pacific Islander*	249,941	5.7	195
	Other/Unknown	4	0.0	--	--	--	***
Judicial District	First	2,372	14.6	First	636,272	14.4	373
	Second	1,506	9.3	Second	413,897	9.4	364
	Third	1,198	7.4	Third	380,656	8.6	315
	Fourth	2,815	17.3	Fourth	991,808	22.4	284
	Fifth	1,025	6.3	Fifth	224,508	5.1	457
	Sixth	725	4.5	Sixth	205,316	4.6	353
	Seventh	1,802	11.1	Seventh	387,110	8.8	466
	Eighth	514	3.2	Eighth	124,543	2.8	413
	Ninth	1,702	10.5	Ninth	268,217	6.1	635
	Tenth	2,600	16.0	Tenth	790,695	17.9	329
	<b>Total</b>	<b>16,259</b>	<b>100.0%</b>	<b>Total</b>	<b>4,423,022</b>	<b>100.0%</b>	<b>368</b>

Source of July 1, 2022, population estimate: U.S. Census Bureau (Nov. 2023).

\*Not Hispanic, alone or in combination with one or more other races. The sum of percentages of residents in each racial or ethnic category exceeds 100 percent (101.8%) because residents of more than one race are counted in more than one category.

\*\*This table lists all Hispanic people as Hispanic, regardless of race.

See Appendix 3 for a map of Minnesota's ten judicial districts.

Most people sentenced for a felony in 2022 were male (81.4%) and in the White race category (55.5%). More were sentenced in the Fourth Judicial District (17.3%) than any other. Although females account for half of Minnesota's population (50.1%), they have always been sentenced at a lower rate than males and have never accounted for more than 20 percent of people sentenced. In 2022, females accounted for 18.6 percent of people sentenced.

While the Black or African American population made up 7.1 percent of Minnesota’s population, it made up 26.5 percent of those sentenced; and while the American Indian population was 1.5 percent of the state, it made up 9.3 percent of people sentenced. The Ninth Judicial District (Northwestern Minnesota) accounted for 6.1 percent of Minnesota’s population and 10.5 percent of the people sentenced.

Figure 6 illustrates the racial or ethnic composition of those sentenced from 1981 through 2022. The White percentage decreased by 25 points between 1981 (81.8%) and 2009 (56.5%). This was largely due to an increase in the Black percentage, although the percentages of other races or ethnicities (particularly Hispanic) also increased. The percentage of Black people sentenced increased from 10.8 percent in 1981 to 26.5 percent in 2022, peaking at 28.1 percent in 2009.

Figure 6. Distribution of Cases by Race/Ethnicity, 1981–2022

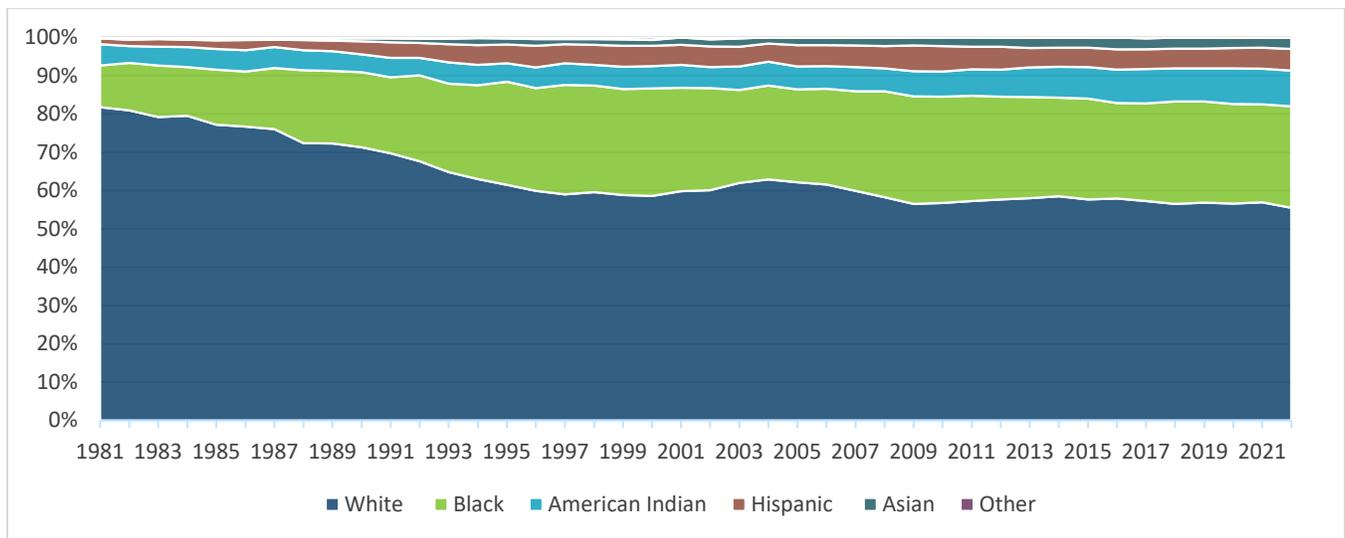
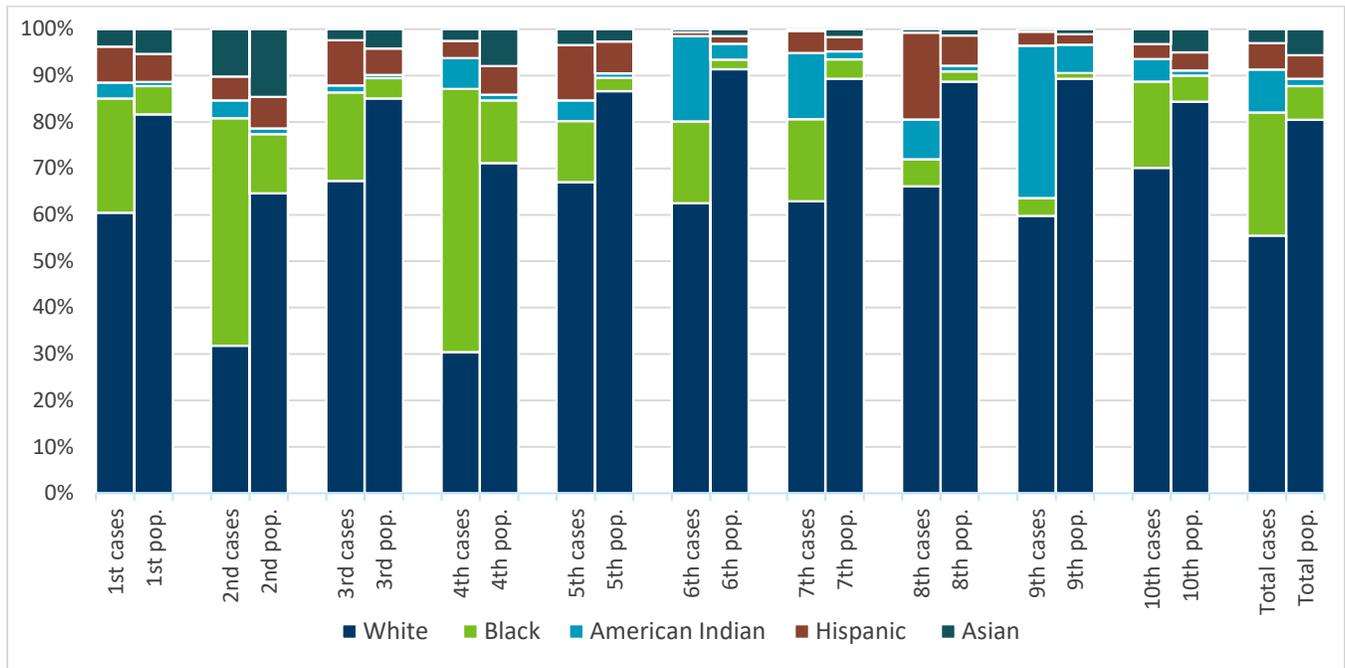


Figure 7 displays the distribution of the racial or ethnic composition of those sentenced in 2022 by Minnesota judicial district, with the racial or ethnic composition of each district’s residential population shown for comparison. The districts with a non-White majority of cases were the Second Judicial District (Ramsey County) and the Fourth Judicial District (Hennepin County). A map of the judicial districts can be found in Appendix 3.

Figure 7. Distribution of Cases and Population by Race and Judicial District, 2022



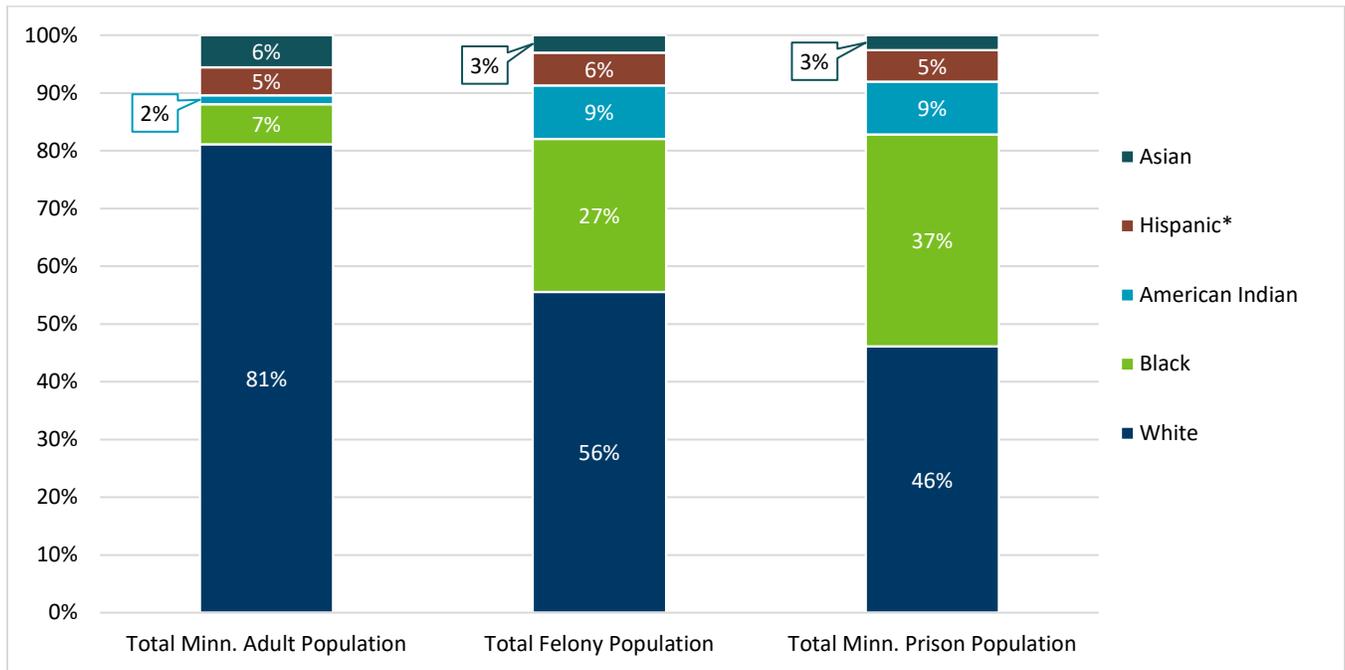
Residential population age 15 or older as of July 1, 2022, as estimated by the U.S. Census Bureau (Nov. 2023). The sums of the residential population percentages exceed 100 percent because, except for Hispanic residents, residents of more than one race are counted in more than one category, although the figure displays them as if they totaled 100 percent.

## Felony Incarceration Rates

A felony sentence must be at least 365 days long.<sup>32</sup> The Guidelines presume who should go to a state prison and for how long based on the severity of the offense and certain criminal history factors; this is known as the “presumptive sentence.” When the Guidelines recommend a state prison sentence, it is called a “presumptive commitment” or “presumptive prison;” and when the Guidelines recommend a non-prison sentence, it is called a “presumptive stayed sentence.” When a defendant goes to a state prison, it is called an “executed prison sentence.” When a defendant does not go to prison, it is called a “stayed sentence,” and the judge usually places the defendant on probation. As a condition of probation, the judge may impose up to 364 days of confinement to be served in their community. Probationers usually serve some time in a local correctional facility and are often given other intermediate sanctions such as treatment (residential or nonresidential), restitution, electronic monitoring, and fines.

<sup>32</sup> A misdemeanor is defined as a sentence of not more than 90 days or a fine of not more than \$1,000, or both; a gross misdemeanor is defined as a sentence that is not a felony or a misdemeanor. Minn. Stat. § [609.02](#).

Figure 8. Racial Distributions of Minnesota’s Adult Residents, People Sentenced for Felonies, and Prisoners, 2022



\*This figure lists all Hispanic people as Hispanic, regardless of race.  
 Source of July 1, 2022, population estimate: U.S. Census Bureau (Nov. 2023). For the Census Bureau estimate, the sum of percentages of residents in each racial or ethnic category exceeds 100 percent (101.8%) because non-Hispanic residents of more than one race are counted in more than one category, although the figure displays them as if they totaled 100 percent.

### Total Incarceration

The total incarceration rate is the percentage of felony cases in which the sentence included imprisonment in a state correctional facility (“prison”) or post-sentence confinement in a local correctional facility, such as a county jail or workhouse. In 2022, the total incarceration rate was 85.5 percent (Figure 17).

Figure 9. Total Incarceration Rates for Felony Cases Sentenced 1982–2022

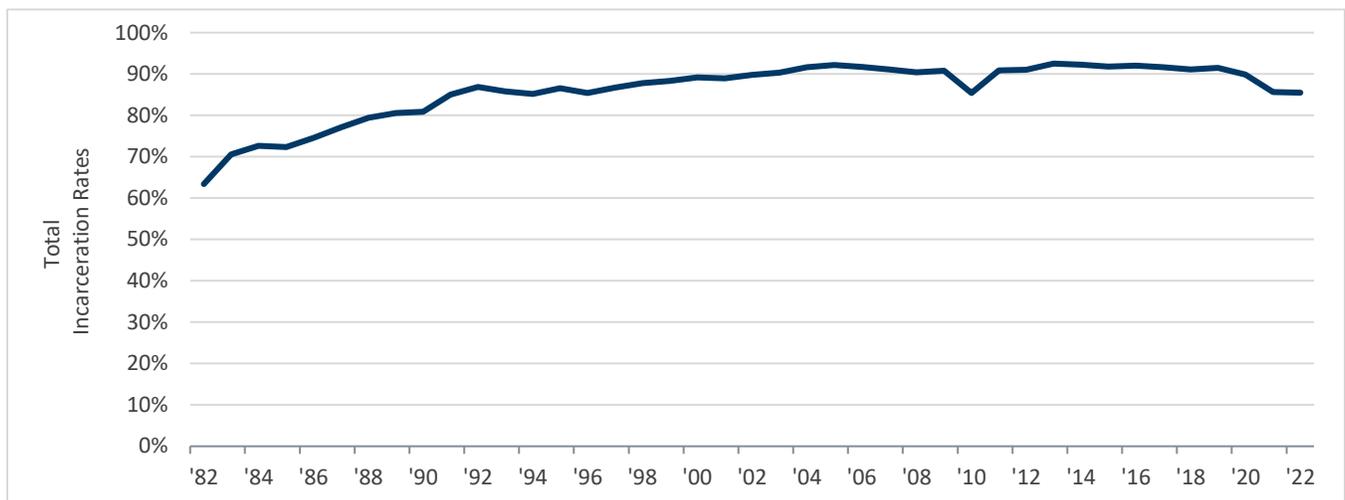
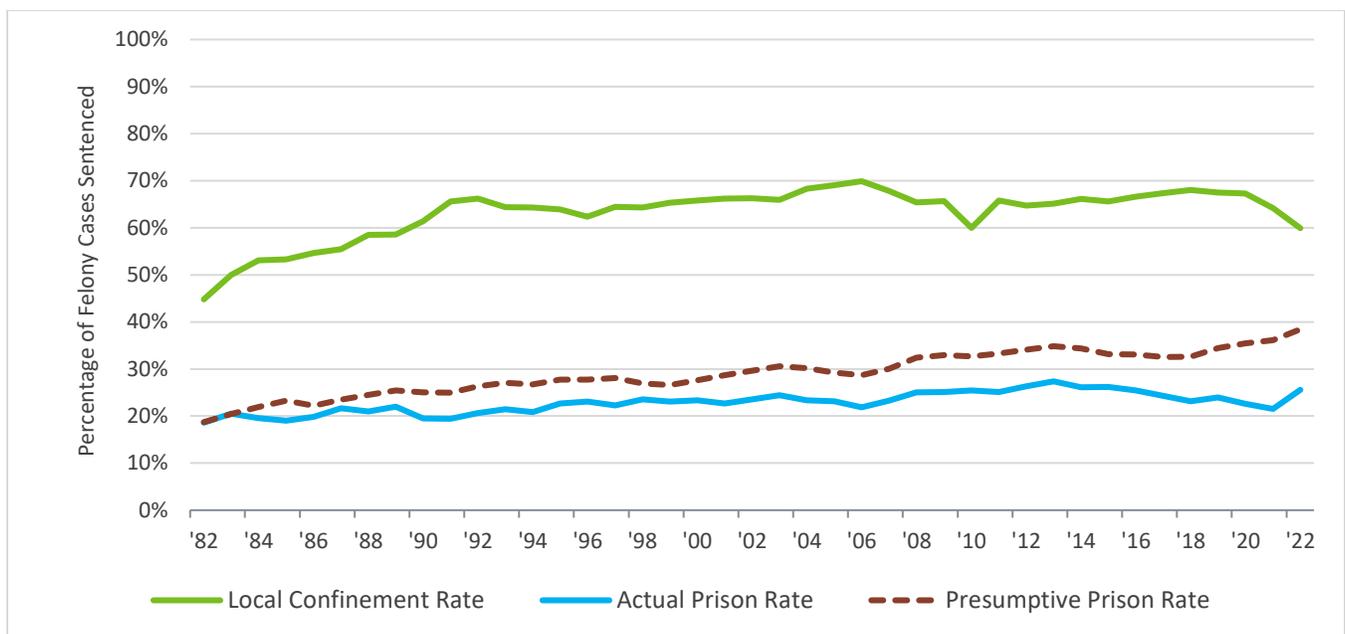


Figure 10 shows the separate rates for state prison and local confinement. For comparison, Figure 10 also displays the “presumptive prison rate,” which is the rate at which the Guidelines recommended prison. More defendants are recommended state prison than actually go.

In 2022, the Guidelines recommended prison in a record-high 38.4 percent of cases (Figure 10, “Presumptive Prison Rate”), compared to the actual prison rate of 25.6 percent. The difference between these two rates is 12.8 percentage points. Historically, the gap between the presumptive prison rate and the actual prison rate remained fairly steady—never exceeding 6 percent—until the early 2000s. Since that time, the gap has widened—between 7 to 10 percentage points in the 2010s and, in the 2020s, between approximately 13 to 15 percentage points (see Figure 10).

Figure 10. Actual & Presumptive Prison Rates and Local Confinement Rate, 1982–2022.



### Incarceration by Sex, Race/Ethnicity, and Judicial District

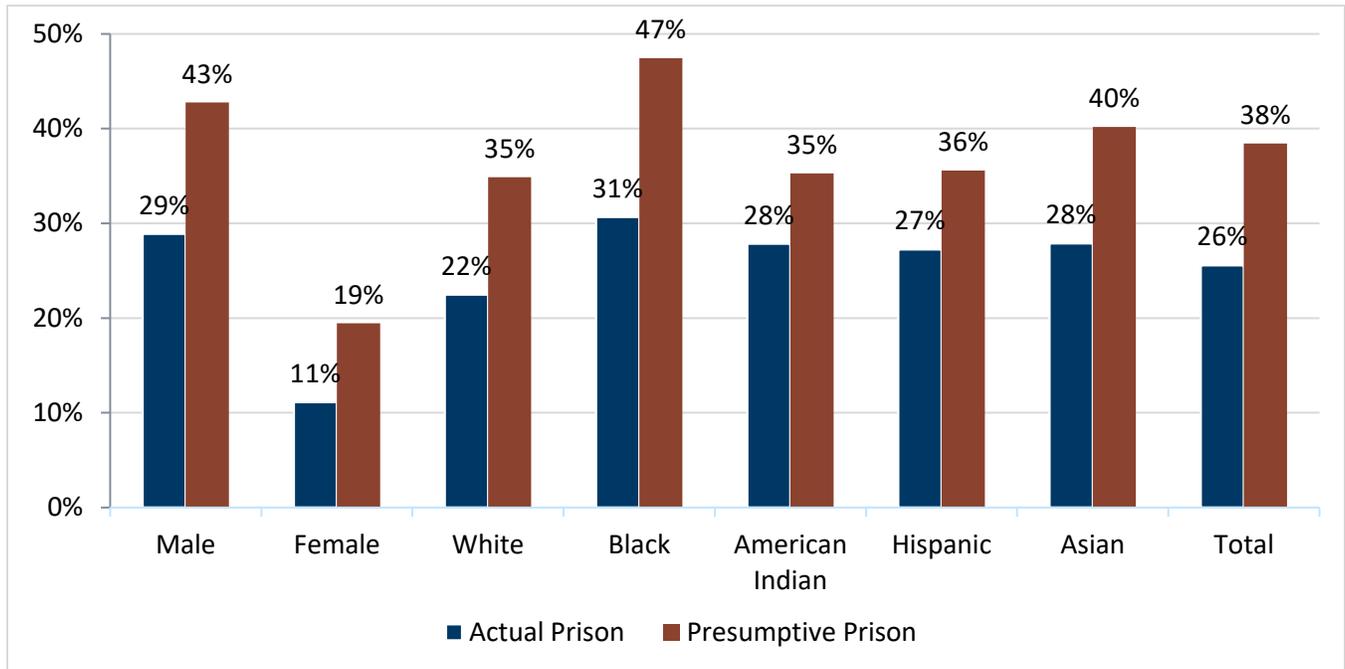
Table 3 provides total incarceration information for cases sentenced in 2022 by sex, race/ethnicity and judicial district. “Total Incarceration” includes all sentences that included a prison sentences or local confinement time as a condition of a stayed sentence post-sentence.

The White population had the lowest prison rate at 22.5 percent while the Black population had the highest prison rate at 30.7 percent. The American Indian, Hispanic, and Asian populations all had prison rates around 27 percent (Table 3 and Figure 11).

Table 3. Incarceration Rates by Sex, Race/Ethnicity, and Judicial District, 2022

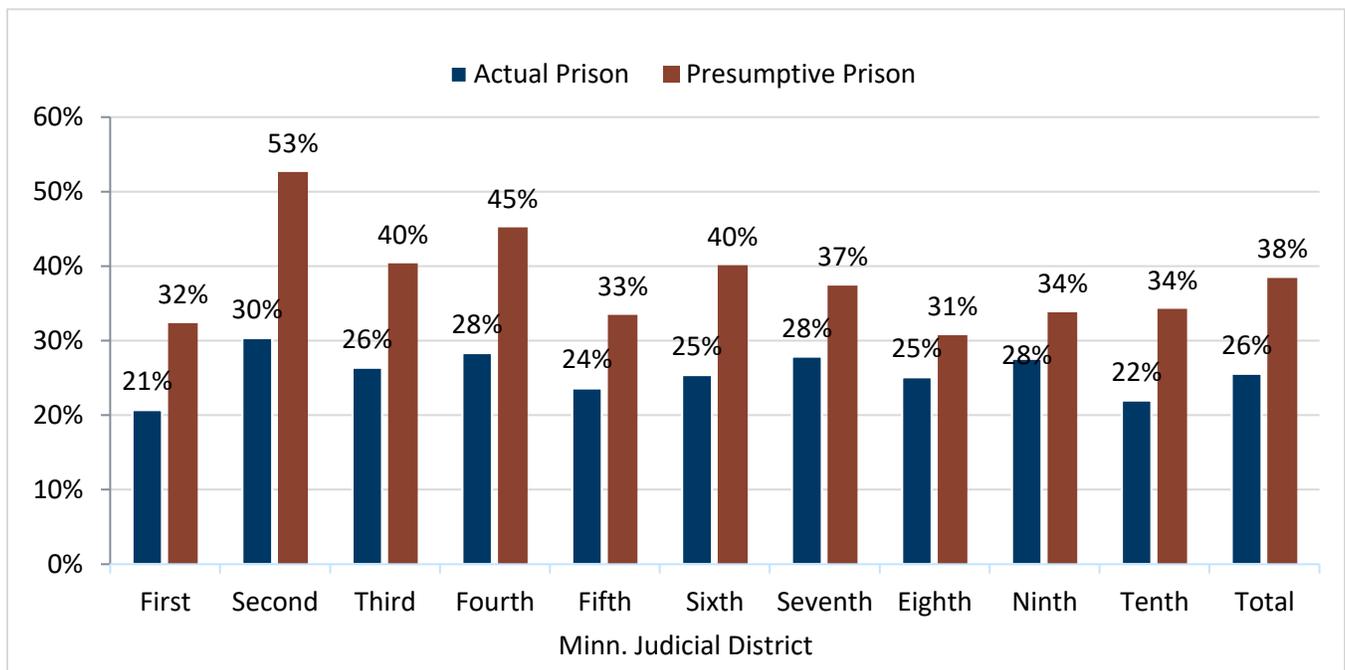
	Total Number	Total Incarceration		Local Confinement		State Prison				
		Number	Rate (%)	Number	Rate (%)	Number	2022 Rate (%)	2017–21 5-Yr. Rate	2018–22 5-Yr. Rate	
Male	13,237	11,509	86.9	7686	58.1	3,823	28.9	26.4	26.7	
Female	3,022	2,389	79.1	2053	67.9	336	11.1	9.9	9.9	
Race & Ethnicity	White	9,025	7,625	84.5	5596	62.0	2,029	22.5	20.4	20.6
	Black	4,309	3,723	86.4	2401	55.7	1,322	30.7	28.6	28.8
	American Indian	1,508	1293	85.7	873	57.9	420	27.9	24.3	24.3
	Hispanic	925	829	89.6	577	62.4	252	27.2	26.2	26.2
	Asian	488	428	87.7	292	59.8	136	27.9	21.3	22.4
	Other/Unknown	4	0	0.0	0	0.0	0	0.0	11.0	0.0
Judicial District	First	2,372	2,001	84.4	1,510	63.7	491	20.7	19.1	19.2
	Second	1,506	1,443	95.8	986	65.5	457	30.3	23.6	24.5
	Third	1,198	939	78.4	623	52.0	316	26.4	24.1	24.2
	Fourth	2,815	2,229	79.2	1,431	50.8	798	28.3	25.3	25.7
	Fifth	1,025	898	87.6	656	64.0	242	23.6	20.7	21.3
	Sixth	725	617	85.1	433	59.7	184	25.4	21.1	21.0
	Seventh	1,802	1,643	91.2	1,141	63.3	502	27.9	26.7	26.7
	Eighth	514	482	93.8	353	68.7	129	25.1	24.2	23.8
	Ninth	1,702	1,314	77.2	845	49.6	469	27.6	25.6	25.9
	Tenth	2,600	2,332	89.7	1,761	67.7	571	22.0	20.6	20.9
<b>Total</b>	<b>16,259</b>	<b>13,898</b>	<b>85.5</b>	<b>9,739</b>	<b>59.9</b>	<b>4,159</b>	<b>25.6</b>	<b>23.2</b>	<b>23.4</b>	

Figure 11. Actual & Presumptive Prison Rates by Sex & Race/Ethnicity, 2022



The Second Judicial District had the highest prison rate at 30.3 percent, and the First Judicial District had the lowest prison rate (20.7%). The Eighth District had the highest local confinement rate (68.7%), and the Ninth and Fourth judicial districts had the lowest rates (49.6% and 50.8%, respectively). A map of the judicial districts can be found in Appendix 3.

Figure 12. Actual & Presumptive Prison Rates by Judicial District, 2022



## Average Pronounced Felony Sentences (Durations)

### State Prison

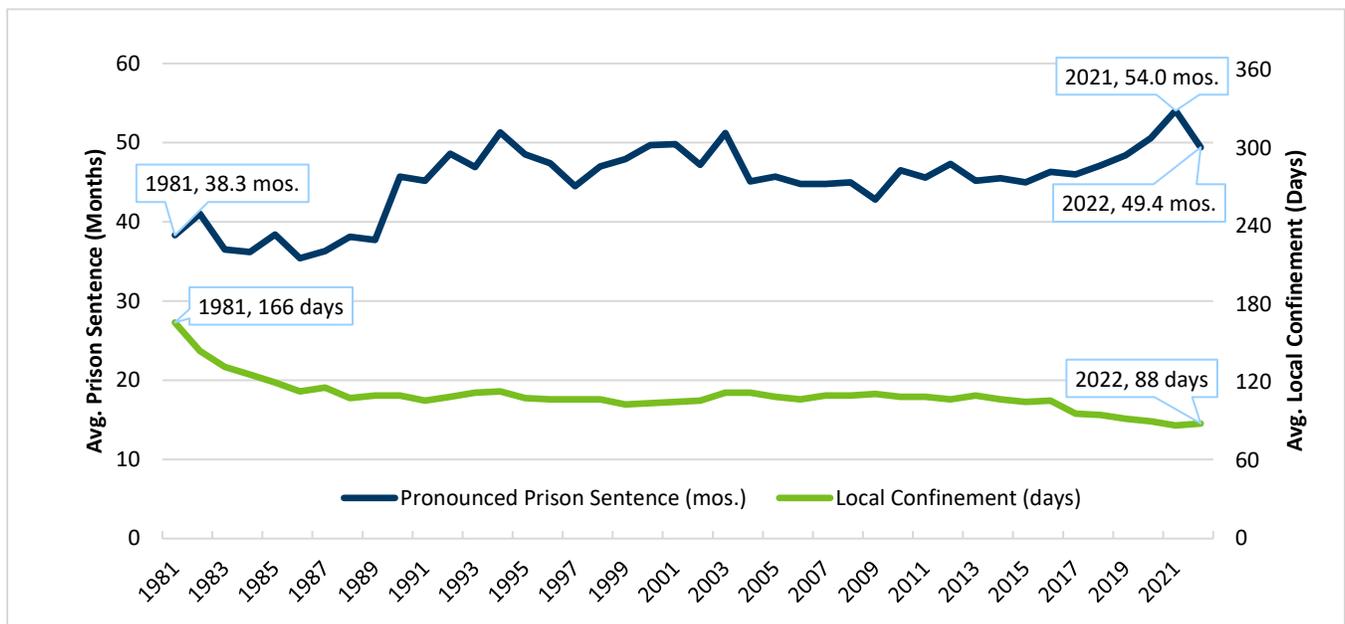
The average pronounced prison duration in 2022 was 49.4 months, a decrease from the record high of 54 months in 2021 (Figure 13). The average duration also varied by applicable Grid: 45 months for cases on the Standard Grid; 78 months for cases on the Sex Offender Grid;<sup>33</sup> and 50 months for cases on the Drug Offender Grid.

### Local Confinement (Post-Sentence in County Jails and Workhouses)

MSGC tracks the term of local confinement pronounced as a condition of probation, not the actual time served. These two numbers are not always equivalent because, for a variety of reasons, many will not serve the full amount of time pronounced by the judge. Some who have served time prior to sentencing may receive credit for this time off the post-sentence time. For some, this credited time will constitute the entire period of local confinement. Others may be released to a treatment program.

In 2022, the average amount of local confinement pronounced was 88 days. The average amount of local confinement and had remained fairly consistent—between 103 and 113 days—from 1988 through 2016, but has been less than 100 days since 2017 (Figure 13).

Figure 13. Average Pronounced Prison Sentences and Local Confinement, 1981–2022

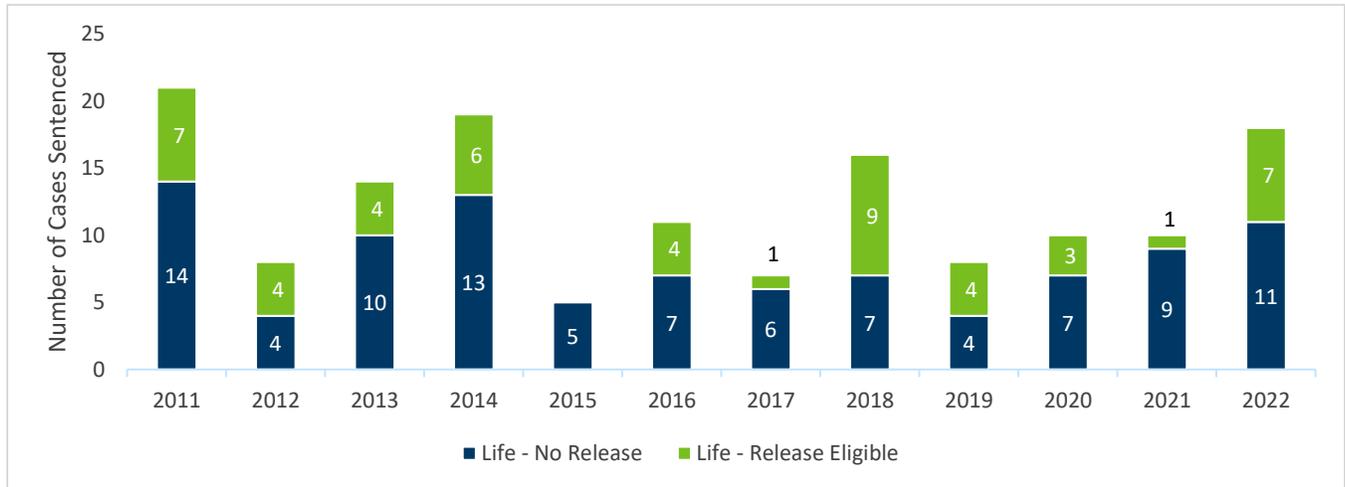


<sup>33</sup> In 2022, 14 cases were sentenced in which the offense was committed before August 1, 2005, ten of which were sex offenses. The applicable pre-2005 Standard Grid was therefore used to determine the presumptive sentence. Seven of these 14 cases received prison sentences with an average pronounced sentence of 89 months.

## Life Sentences

Eighteen people received life sentences in 2022, the highest number since 2014. Of the eighteen life sentences, seventeen were for first-degree murder, and one was for first-degree criminal sexual conduct. Eleven will never be eligible for release: ten because the conviction was for premeditated first-degree murder,<sup>34</sup> and one because the conviction was first-degree criminal sexual conduct with two or more heinous elements or as a repeat offender. Life sentences are excluded from the average pronounced prison sentences reported.

Figure 14. Life Sentence Cases, 2011–2022



## Departures from the Sentencing Guidelines

A “departure” is a pronounced sentence other than that recommended in the appropriate cell of the applicable Guidelines Grid. Since the presumptive sentence is based on a typical case, the appropriate use of departures by the courts when substantial and compelling circumstances exist can actually enhance proportionality by varying the sanction in an atypical case.

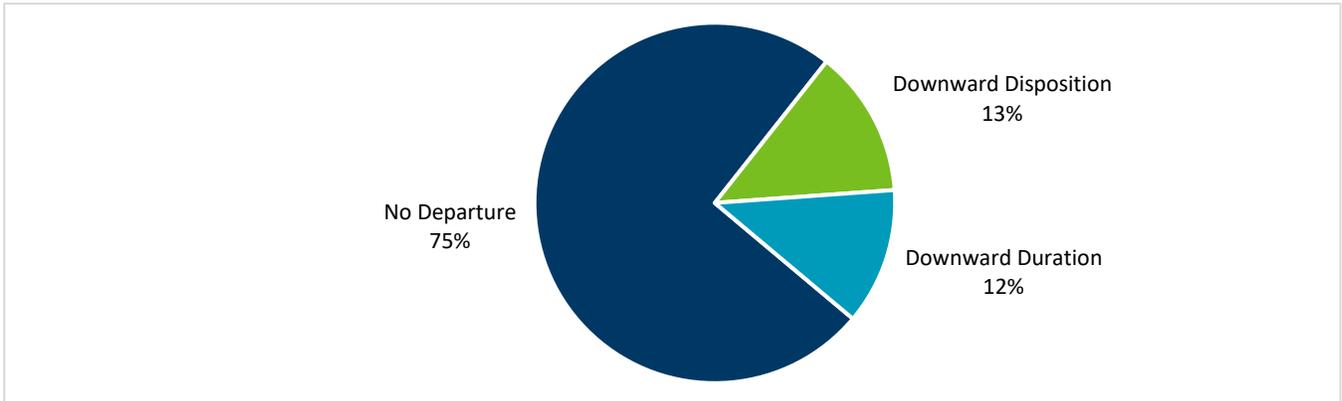
### Total Departures

In 71 percent of cases, the sentence imposed adhered to the Guidelines Grid and was not a departure. In the remaining 29 percent of cases, there was some type of departure; *i.e.*, downward (“mitigated”), upward (“aggravated”), or mixed (Figure 15). Among the aggravated departures was a new type of departure: a departure from the new five-year presumptive probation cap.<sup>35</sup> Such a departure occurred in 0.7 percent of the 2022 cases (116 cases).

<sup>34</sup> Life imprisonment without possibility of release has been the mandatory sentence for premeditated murder and certain sex offenses since 2005. [2005 Minn. Laws ch. 136](#), art. 2, §§ 5 & 21, & art. 17, § 9.

<sup>35</sup> Effective August 1, 2020, it was an aggravated/upward length of stay departure to exceed five-years or the length of the statutory maximum punishment, whichever was less, in a circumstance other than as described in 2020 Guidelines section

Figure 15. Total Departure Rates, All Cases, 2022

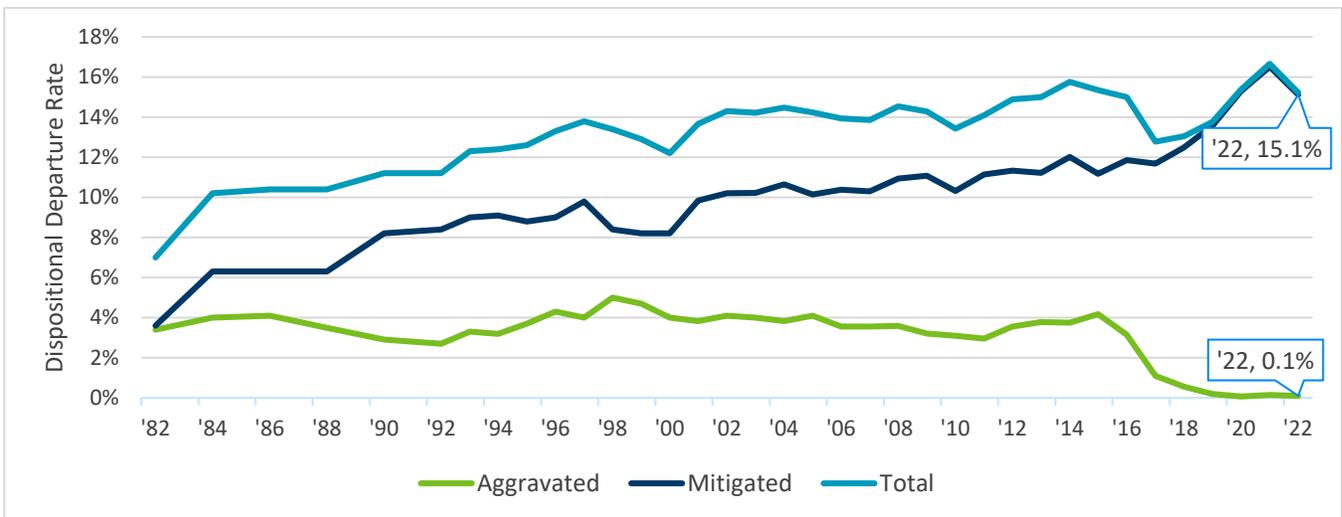


### Dispositional Departures

While Figure 15, above, reports both the dispositional and durational departure rates among all cases, this section focuses on dispositional departures. A “dispositional departure” occurs when the court orders a disposition other than that recommended in the Guidelines. There are two types: downward (“mitigated”) and upward (“aggravated”). An aggravated dispositional departure occurs when the Guidelines recommend a stayed sentence but the court pronounces an executed prison sentence. A mitigated dispositional departure occurs when the Guidelines recommend an executed prison sentence but the court pronounces a stayed sentence.

In 2022, 15.2 percent of cases had a sentence that was a dispositional departure from the Guidelines: 15.1 percent mitigated; and 0.1 percent aggravated. The majority of the increase in the total departure rate since 1981 has resulted from increases in the mitigated dispositional departure rate (Figure 16).

Figure 16. Dispositional Departure Rates, All Cases, 1982–2022



3.A.2.d. This policy applied until August 1, 2023, at which time the Legislature codified similar five-year probation lengths in [Minn. Stat. § 609.135](#); refer to discussion on page 5.

## Mitigated Dispositional Departure Rates for Presumptive Commitment Offenses

While Figure 16, above, displays both mitigated and aggravated dispositional departures for all cases, Figure 17 focuses only on mitigated dispositional departures. Because a mitigated dispositional departure occurs when the Guidelines recommend an executed prison sentence but the court pronounces a stayed sentence, the rates in Figure 17 are reported as a percentage of presumptive commitment cases only. The rates in Figure 17 are therefore higher than those illustrated by the “Mitigated” line in Figure 16, which are percentages of all cases sentenced.

In 2022, the mitigated dispositional departure rate in presumptive commitment cases was 39.4 percent. While lower than 2021’s record-high rate (45.7%), the 2022 rate was higher than the mitigated dispositional departure in each of the first 38 years of the Minnesota Sentencing Guidelines (1981–2018; Figure 17).

Figure 17. Mitigated Dispositional Departure Rates, Presumptive Commit Cases Only, 1981–2022

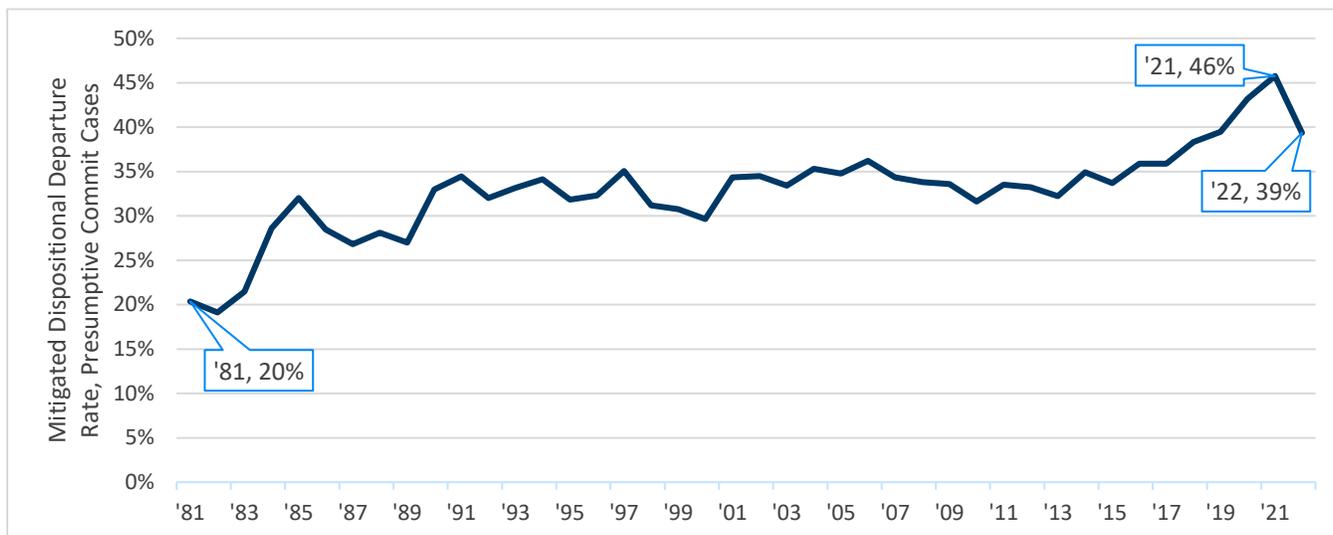


Table 4 lists dispositional departure rates by sex, race or ethnicity, and judicial district for presumptive commitment offenses. The mitigated dispositional departure rate is higher for females (53.4%) than males (37.9%). The mitigated dispositional departure rate ranged from a low of 28.8 percent for the American Indian population to a high of 42.9 percent for the White population. There was also variation in the rate by judicial district, ranging from a low of 29.1 percent in the Eighth Judicial District (includes west-central counties) to a high of 45.5 percent in the Second Judicial District (Ramsey County).

When reviewing Table 4, note that observed variations may be partly explained by regional differences in case volume, charging practices, and plea agreement practices, as well as differences in the types of offenses sentenced, criminal history scores of defendants across racial groups or across regions, and available local correctional resources. For example, the Eighth Judicial District makes up three percent of the state’s case volume (514 cases) with 31 percent of the cases being presumptive commitments (158 cases) compared to the Fourth Judicial District which makes up 17 percent of the state’s case volume (2,815 cases) with 45 percent of the cases being presumptive commitments (1,272 cases). (See Appendix 3 for a map of Minnesota’s ten judicial districts.)

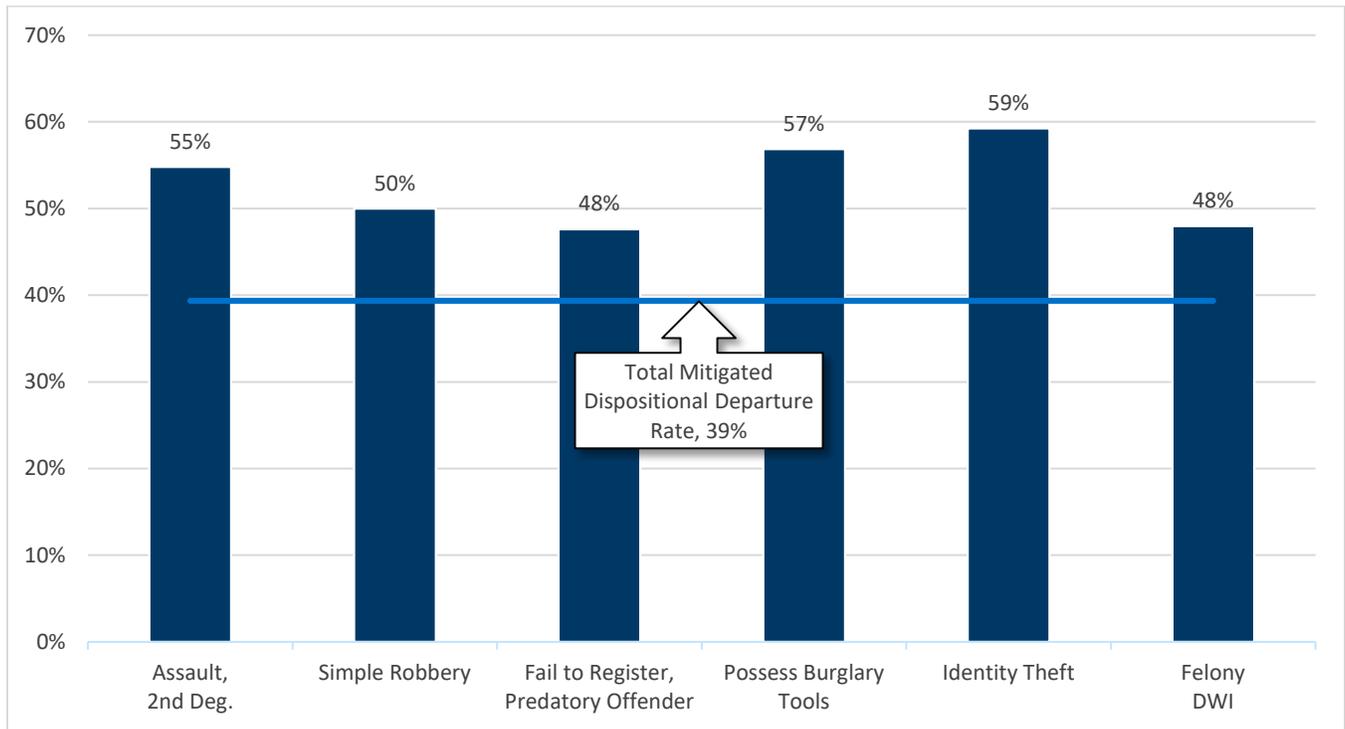
Table 4. Dispositional Departures by Presumptive Disposition, by Sex, Race/Ethnicity, & Judicial District, 2022

		Total Number	Presumptive Stays			Presumptive Commitments			
			Total	Aggravated Dispositional Departure		Total	Mitigated Dispositional Departure		
				Number	Rate (%)		Number	2022 Rate (%)	2018–22 5-Yr. Rate
	Male	13,237	7,577	14	0.2	5,660	2,145	37.9	39.2
	Female	3,022	2,434	3	0.1	588	314	53.4	57.6
Race/Ethnicity	White	9,025	5,878	13	0.2	3,147	1,349	42.9	44.0
	Black	4,309	2,265	1	0.0	2,044	781	38.2	38.9
	American Indian	1,508	976	1	0.1	532	153	28.8	33.2
	Hispanic	925	596	2	0.3	329	103	31.3	34.8
	Asian	488	292	0	0.0	196	73	37.2	43.1
	Other/Unknown	4	4	0	0.0	0	---	---	---
Judicial District	First	2,372	1,605	3	0.2	767	336	43.8	42.0
	Second	1,506	713	1	0.1	793	361	45.5	49.9
	Third	1,198	714	2	0.3	484	203	41.9	43.2
	Fourth	2,815	1,543	2	0.1	1,272	499	39.2	39.0
	Fifth	1,025	682	2	0.3	343	130	37.9	40.8
	Sixth	725	434	1	0.2	291	119	40.9	47.2
	Seventh	1,802	1,128	1	0.1	674	232	34.4	33.8
	Eighth	514	356	0	0.0	158	46	29.1	31.1
	Ninth	1,702	1,127	2	0.2	575	172	29.9	33.8
	Tenth	2,600	1,709	3	0.2	891	361	40.5	43.6
	<b>Total</b>	<b>16,259</b>	<b>10,011</b>	<b>17</b>	<b>0.2</b>	<b>6,248</b>	<b>2,459</b>	<b>39.4</b>	<b>40.9</b>

### Mitigated Dispositional Departure Rate for Selected Offenses

Dispositional departure rates vary for the type of offense. Figure 18 displays the highest rates of mitigated dispositional departure in 2022 compared to the total rate of 39 percent. The selected offenses were those with 50 or more presumptive commitment cases and a mitigated dispositional departure rate of 47 percent or more. Since 2015, three offenses consistently remain in this select group: Assault in the second degree, failure to register as a predatory offender, and felony DWI.

Figure 18. Mitigated Dispositional Departure Rates for Selected Offenses Compared to Total Rate, 2022



Note: Offenses were selected based on criteria that there were 50 or more presumptive commitment cases and the mitigated dispositional departure rate was 47 percent or more. Assault, 2<sup>nd</sup> Deg. (N=323); Simple Robbery (N=54); Fail to Register, Predatory Offender (N=294); Possess Burglary Tools (N=51); Identity Theft (N=54); Felony DWI (N=583).

Two of the offenses highlighted in Figure 18, assault in the second degree and failure to register as a predatory offender, have mandatory minimum sentences specified in statute, with provisions allowing for departure from those mandatory minimums.

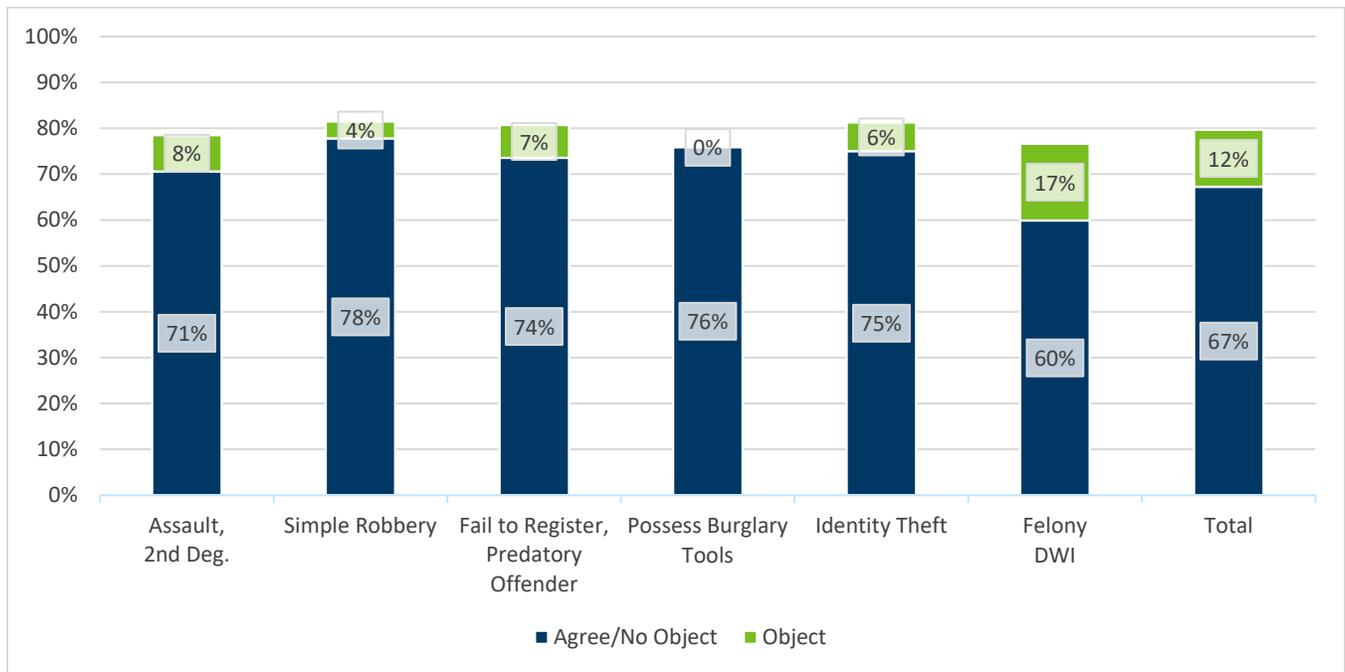
Assault in the second degree, by definition, involves the use of a dangerous weapon and therefore carries a mandatory minimum prison sentence (Minn. Stat. § [609.11](#), subs. 4, 5, and 9). The second-degree assault statute proscribes a broad range of misbehavior: Injury to, or physical contact with, the victim may or may not occur, and the type of dangerous weapon involved can vary widely, from a pool cue to a knife to a firearm. Circumstances surrounding the offense can also vary significantly, from barroom brawls to unprovoked confrontations. The mandatory minimum statute specifically permits the court to sentence without regard to the mandatory minimum, provided that substantial and compelling reasons are present (Minn. Stat. § [609.11](#), subd. 8). It is perhaps unsurprising to find many departures in the sentencing of a crime that can be committed in many different ways.

Failure to register as a predatory sex offender also has a statutory mandatory minimum sentence, accompanied by a statutory provision that allows for sentencing without regard to the mandatory minimum (Minn. Stat. § [243.166](#), subd. 5(d)).

In 67 percent of all mitigated dispositional departures, the court stated that the prosecutor agreed to the departure, recommended the departure, or did not object to the departure. In 12 percent of these cases, the court stated that the prosecutor objected to the departure (Figure 19, “Total”). The court did not supply

information on the prosecutor’s position in 20 percent of these departures. Prosecutor agreement can vary by offense (Figure 19). In all offense categories, amenability to probation and amenability to treatment were the most frequently cited substantial and compelling reasons for departure recorded.

Figure 19. Court-Cited Position of Prosecutor for Mitigated Dispositional Departures, Selected Offenses, 2022



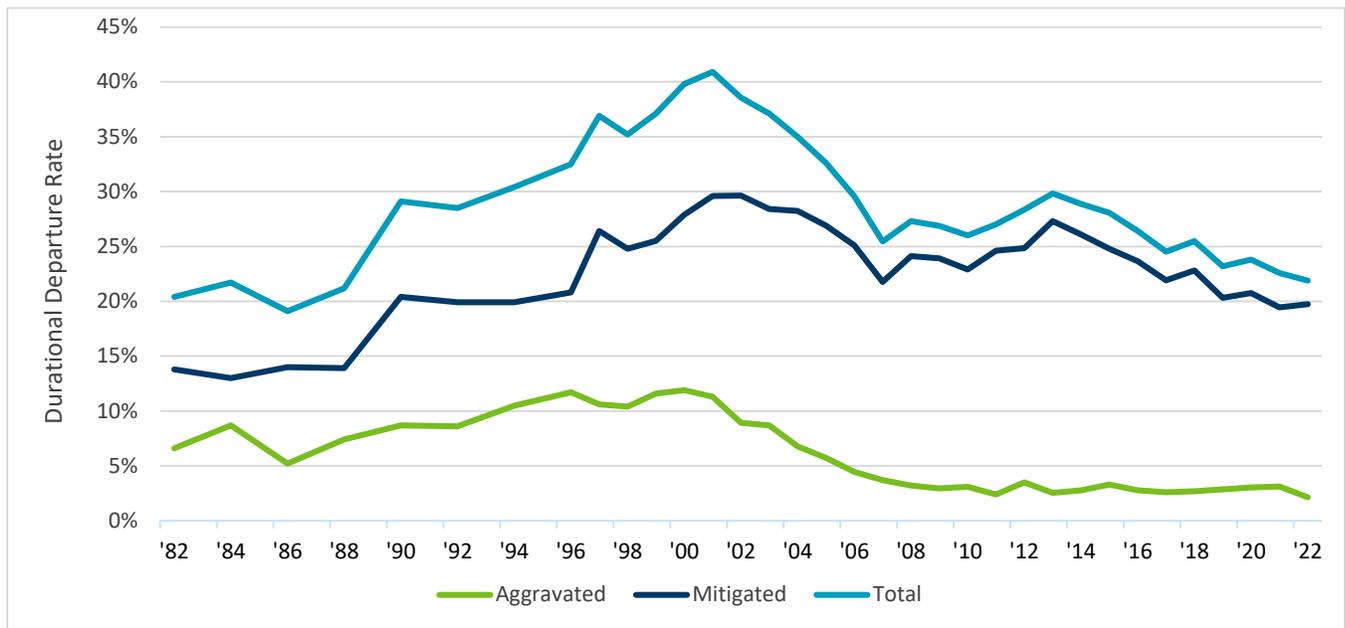
Notes: Departure reports do not always include information on the prosecutor’s position, which is why the columns do not add up to 100% for each offense. Offenses were selected based on criteria that there were 50 or more presumptive commitment cases and the mitigated dispositional departure rate was 47 percent or more. “Total” refers to the total 2,459 cases receiving mitigated dispositional departures.

## Durational Departures

A “durational departure” occurs when the court orders a sentence with a duration that is other than the presumptive fixed duration or range in the appropriate cell on the applicable Grid. There are two types of durational departures: aggravated durational departures and mitigated durational departures. An aggravated durational departure occurs when the court pronounces a duration that is more than 20 percent higher than the fixed duration displayed in the appropriate cell on the applicable Grid. A mitigated durational departure occurs when the court pronounces a sentence that is more than 15 percent lower than the fixed duration displayed in the appropriate cell on the applicable Grid.

This section focuses on departures for executed prison sentences (those for whom a prison sentence was imposed), which are shown in Figure 20. Since the enactment of the Guidelines, the mitigated durational departure rate has consistently been higher than the aggravated durational departure rate. The 2022 mitigated durational departure rate of 19.7 percent is similar to that seen in 2021 (the lowest rate since the mid-1980s). The aggravated durational departure rate fell from 3.1 percent to 2.1 percent.

Figure 20. Durational Departure Rates for Cases Receiving an Executed Prison Sentence, 1982–2022.



### Durational Departure Rates by Sex, Race/Ethnicity and Judicial District

Table 5 lists durational departure rates for executed prison sentences by sex, race or ethnicity, and Minnesota Judicial District. These rates are illustrated graphically in Figure 23 and Figure 24. The mitigated durational departure rate for males sentenced in 2022 was higher than for females (20% vs. 17%).

The mitigated durational departure rate varies from a low of 13.3 percent for the American Indian population to a high of 27.5 percent for the Black population. Mitigated durational departure rates also vary considerably by Minnesota Judicial District, ranging from a low of 4.7 percent in the Eighth Judicial District to a high of 38.7 percent in the Second Judicial District. (See Appendix 3 for a map of Minnesota’s ten judicial districts.)

### Durational Departures by Offense Type

Offenses in the non-criminal sexual conduct (non-CSC sex offense) category have higher mitigated durational departure rates and lower aggravated durational departure rates than other offense types. The offense in the non-CSC sex offense category with the highest mitigated durational departures (excluding an offense with very few cases) is failure to register as a predatory offender. Person offenses had the highest aggravated durational departure rate at 3 percent.

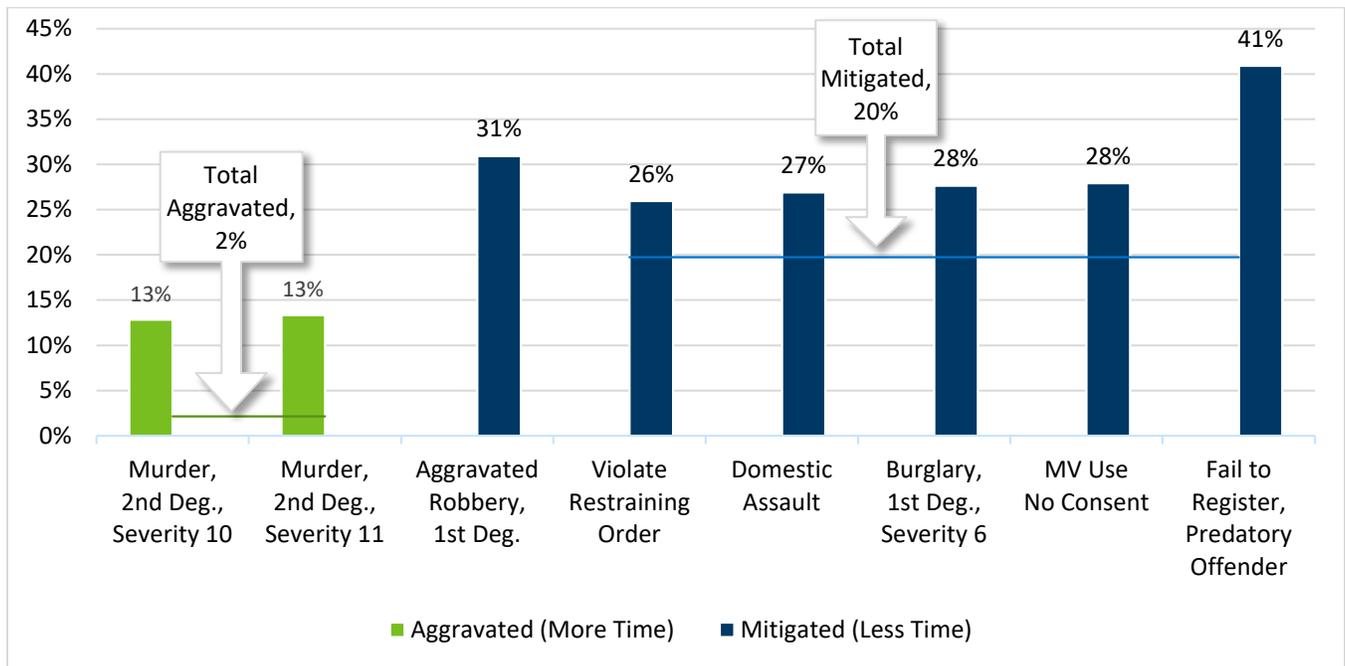
Figure 21 displays those offenses with at least 47 executed prison cases that had the highest durational departure rates. Included in this graph are offenses with a mitigated durational departure rate of 26 percent or more; or an aggravated durational departure rate of nine percent or more.

Aggravated durational departure rates were highest for murder in the second degree. Mitigated durational departure rates were highest for aggravated robbery in the first degree and failure to register as a predatory

offender. Since 2017, aggravated robbery in the first degree and failure to register as a predatory offender have consistently been in the select group of cases in which mitigated durational departures are higher than the total.

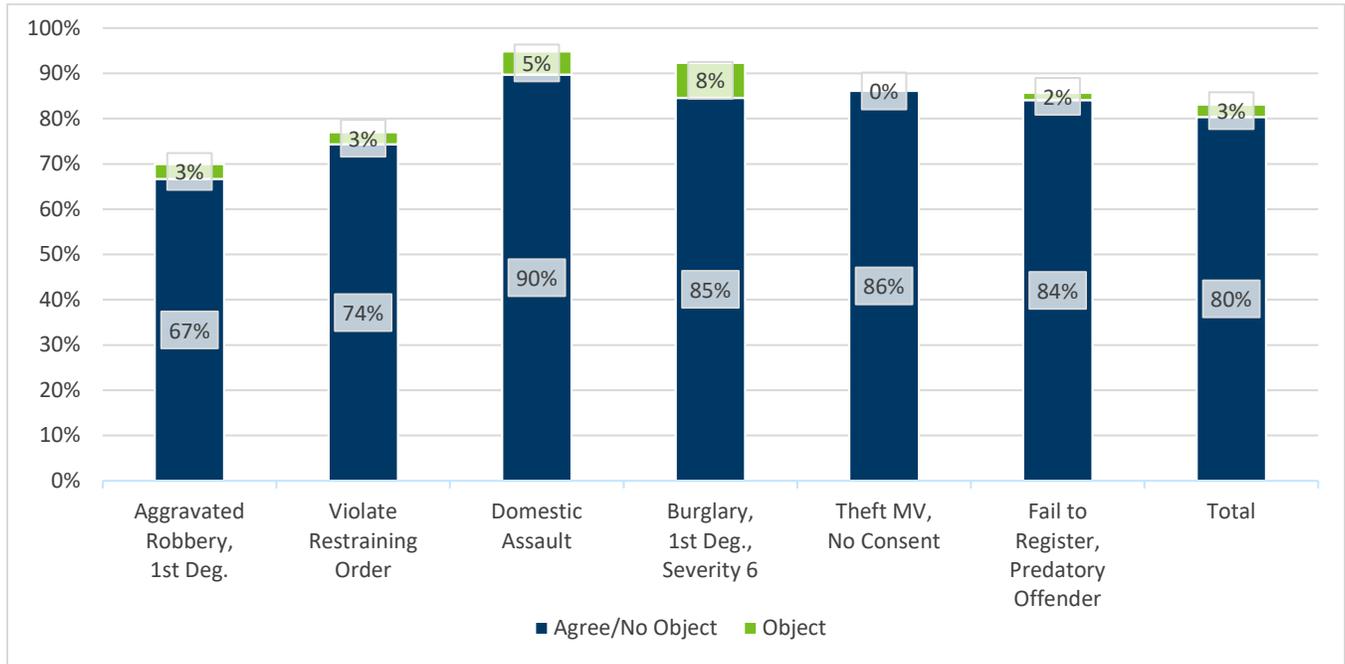
For both mitigated and aggravated durational departures, plea agreement or recommendation of the prosecutor were the most frequently cited reasons. See Figure 22 for the position of the prosecutor for those selected offenses shown in Figure 21.

Figure 21. Durational Departure Rates, Cases Receiving Executed Prison Sentences, Selected Offenses, 2022



Note: Mitigated offenses were selected based on criteria that there were 47 or more executed prison cases for mitigated durational departures and the mitigated durational departure rate was 26 percent or more. Aggravated offenses were selected based on criteria that there were 36 or more executed prison cases for aggravated durational departures and the aggravated durational departure rate was 10 percent or more. Murder, 2<sup>nd</sup> Deg. at Severity 10 (N=39); Murder, 2<sup>nd</sup> Deg. at Severity 11 (N=60); Aggravated Robbery, 1<sup>st</sup> Deg. (N=97); Violate Restraining Order (N=285); Domestic Assault (N=145); Burglary, 1<sup>st</sup> Deg. At Severity 6 (N=47); MV Use – No Consent (N=129); Fail to Register, Predatory Offender (N=154).

Figure 22. Court-Cited Position of Prosecutor, Mitigated Durational Departures, Executed Prison Sentences, Selected Offenses, 2022



Notes: Departure reports do not always include information on the prosecutor’s position, which is why the columns do not add up to 100 percent for each offense type. Offenses were selected based on criteria that there were 47 or more executed prison cases and the mitigated durational departure rate was 26 percent or more.

### Durational Departure Rates by Sex, Race/Ethnicity and Judicial District

Table 5 lists durational departure rates for executed prison sentences by gender, race or ethnicity, and Minnesota Judicial District. These rates are illustrated graphically in Figure 23 and Figure 24. The mitigated durational departure rate for males sentenced in 2022 was higher than for females (20% vs. 17%). When the departure rate is examined by racial or ethnic group, the rate varies from a low of 13.3 percent for the American Indian population to a high of 27.5 percent for the Black population. There is also considerable geographical variation in mitigated durational departure rates: while the rates in the Eighth, Sixth, Third, and Ninth judicial districts range between 4.7 to 7.7 percent, the Second and Fourth judicial districts’ rates are at 35.2 and 38.7 percent, respectively. A map of Minnesota’s ten judicial districts can be found in Appendix 3.

Table 5. Durational Departures, Executed Prison Sentences, by Sex, Race/Ethnicity, & Judicial Dist., 2022

		Number Executed Prison	Total Durational Departure Rate (%)	Durational Departures, Executed Prison Sentences Only						
				No Departure		Aggravated		Mitigated		
				Number	Rate	Number	Rate	Number	2022 Rate	2018–22 5-Yr. Rate
	Male	3,823	22.1	2,979	77.9	81	2.1	763	20.0	20.9
	Female	336	19.7	270	80.4	8	2.4	58	17.3	18.6
Race/Ethnicity	White	2,029	18.3	1,658	81.7	42	2.1	329	16.2	16.2
	Black	1,322	29.5	932	70.5	27	2.0	363	27.5	28.6
	American Indian	420	15.2	356	84.8	8	1.9	56	13.3	17.0
	Hispanic	252	17.9	207	82.1	7	2.8	38	15.1	17.7
	Asian	136	29.4	96	70.6	5	3.7	35	25.7	26.4
	Other/Unknown	0		---		---		---		
Judicial District	First	491	23.9	374	76.2	21	4.3	96	19.6	18.1
	Second	457	40.5	272	59.5	8	1.8	177	38.7	41.5
	Third	316	9.5	286	90.5	7	2.2	23	7.3	7.7
	Fourth	798	36.8	504	63.2	13	1.6	281	35.2	37.7
	Fifth	242	16.1	203	83.9	3	1.2	36	14.9	14.2
	Sixth	184	8.2	169	91.8	2	1.1	13	7.1	9.4
	Seventh	502	18.5	409	81.5	17	3.4	76	15.1	14.7
	Eighth	129	7.8	119	92.2	4	3.1	6	4.7	3.9
	Ninth	469	9.2	426	90.8	7	1.5	36	7.7	10.1
	Tenth	571	14.7	487	85.3	7	1.2	77	13.5	11.3
	<b>Total</b>	<b>4,159</b>	<b>19.7</b>	<b>3,249</b>	<b>78.1</b>	<b>89</b>	<b>2.1</b>	<b>821</b>	<b>19.7</b>	<b>20.7</b>

### Mitigated Departures: Sex, Race/Ethnicity, & Judicial Districts

Previous sections discussed variations—by sex, race or ethnicity, and judicial district—in mitigated dispositional departure rates for presumptive commitment offenses (p. 31) and in mitigated durational departure rates for executed prison sentences (p. 37). Figure 23 and Figure 24, present a combined illustration of these variations. Among racial or ethnic groups whose members were sentenced in 2022 (Figure 23)—

- The White population had a higher mitigated dispositional departure rate than the total rate, but a lower durational departure rate;
- The Black and Asian populations had lower mitigated dispositional, but a higher durational departure rate than the total rate;
- The American Indian and Hispanic populations had lower mitigated dispositional and durational departure rates than the total rate.

Recall from Figure 7 that racial or ethnic composition varies by Minnesota judicial district. When reviewing Figure 24, note that the observed variations may be partly explained by regional differences in charging, plea

agreement, and sentencing practices, as well as by regional differences in case volume, the types of offenses sentenced, criminal history scores across racial groups, and available local correctional resources. (See Appendix 3 for a map of Minnesota’s ten judicial districts.)

Figure 23. Mitigated Departure Rates by Sex & Race/Ethnicity, 2022

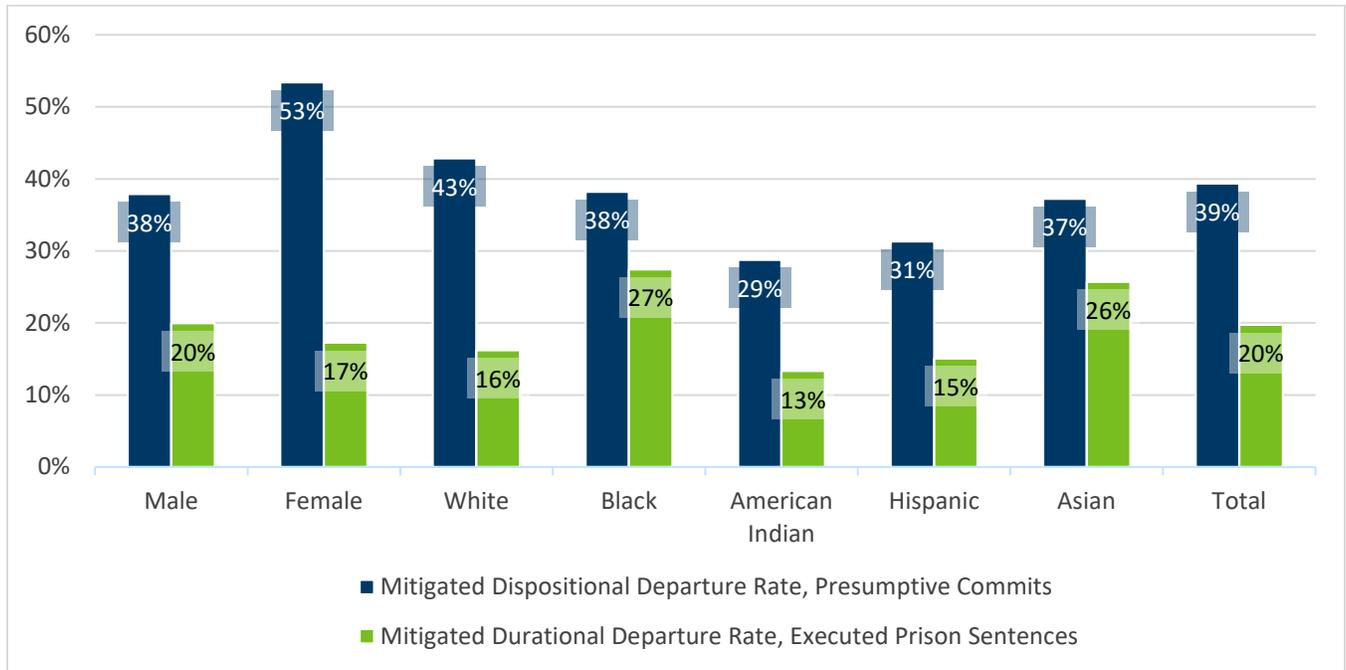
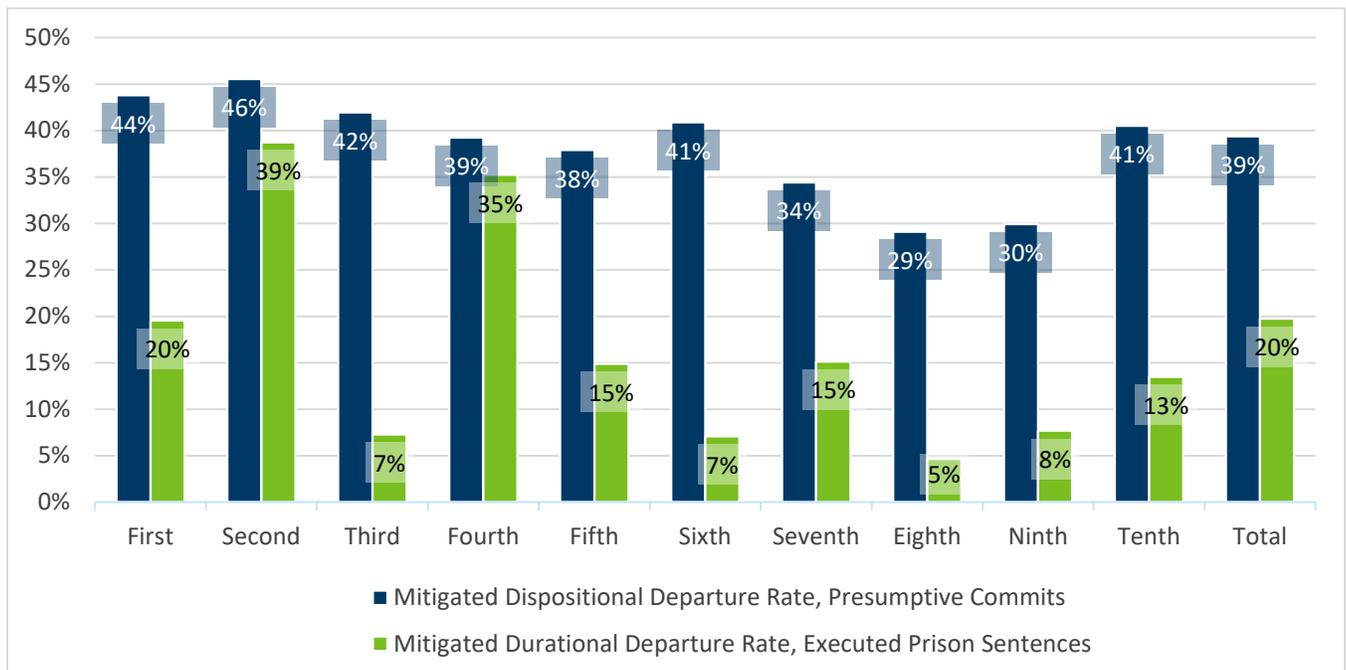


Figure 24. Mitigated Departure Rates by Minnesota Judicial District, 2022



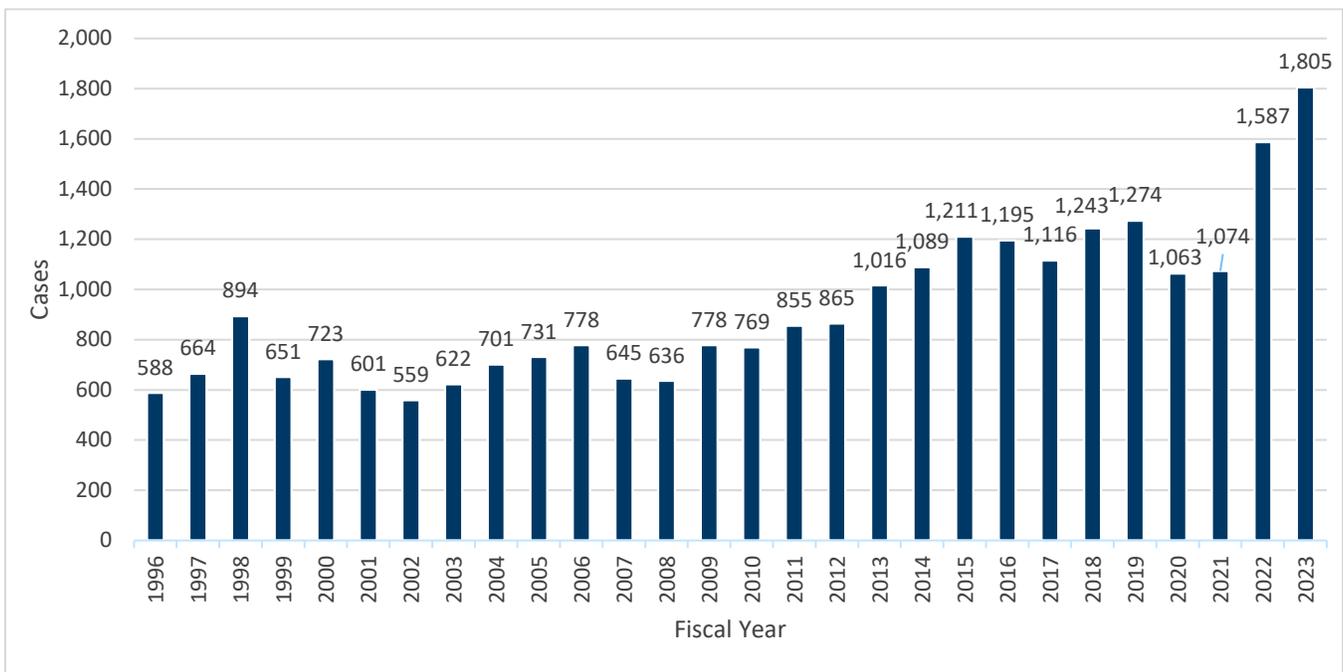
# County Attorney Firearms Reports

Minnesota law requires all county attorneys, by July 1 of each year, to submit to the Commission their data regarding felony cases in which defendants allegedly possessed or used a firearm and committed offenses listed in [Minn. Stat. § 609.11](#), subdivision 9.<sup>36</sup> The Commission is required to include in its annual report to the Legislature a summary and analysis of the reports received. Memoranda describing the mandate, along with report forms, are distributed by MSGC staff to county attorneys. Although MSGC staff clarifies inconsistencies in the summary data, the information received from the county attorneys is reported directly as provided.

## Cases Allegedly Involving a Firearm, 1996 to 2023

Since the mandate began in 1996, the average number of annual cases allegedly involving firearms statewide has been 912. In fiscal year (FY) 2023 (July 1, 2022, through June 30, 2023), county attorneys report disposing of 1,805 cases allegedly involving a firearm (Figure 25). This was a 14 percent increase from FY 2022, and the largest number of cases reported in the 28 years of the mandate.

Figure 25. Cases Allegedly Involving a Firearm, FY 1996 to FY 2023



<sup>36</sup> The statute provides a mandatory minimum sentence of 3 years for the first conviction of a designated offense committed while the defendant or an accomplice possessed or used a firearm, and 5 years for the second. Minn. Stat. § 609.11, subd. 5(a). Designated offenses include murder in the first, second, or third degree; assault in the first, second, or third degree; burglary; kidnapping; false imprisonment; manslaughter in the first or second degree; aggravated robbery; simple robbery; carjacking in the first, second, or third degree; first-degree or aggravated first-degree witness tampering; some criminal sexual conduct offenses; escape from custody; arson in the first, second, or third degree; felony drive-by shooting; aggravated harassment and stalking; felon in possession of a firearm; and felony controlled substance offenses.

## Cases Charged, 2023

Of the 1,805 cases in which defendants allegedly possessed or used firearms, prosecutors charged 1,736 cases (96%), while 69 cases (4%) were not charged (Figure 26, “Charged” and “Not Charged”).

## Case Outcomes, 2023

Of the 1,736 cases charged, 1,009 (58%) were convicted of offenses designated in [Minn. Stat. § 609.11](#); 158 (9%) were convicted of non-designated offenses (not covered by the mandatory minimum (*e.g.*, threats of violence under [Minn. Stat. § 609.713](#))); 377 (22%) had all charges dismissed; 20 (1%) were acquitted on all charges; and 172 (10%) were “other” cases, including federal prosecutions and stays of adjudication (Figure 26).

## Cases Convicted of Designated Offense & Firearm Established on the Record, 2023

In 958 (95%) of the 1,009 cases in which there was a conviction for a designated offense, use or possession of a firearm was established on the record (Figure 26, “Firearm Established”). The fact-finder, *i.e.*, the judge or jury, must establish whether the defendant or an accomplice used or possessed a firearm in the commission of the offense at the time of conviction. Minn. Stat. § 609.11, subdivision 7.

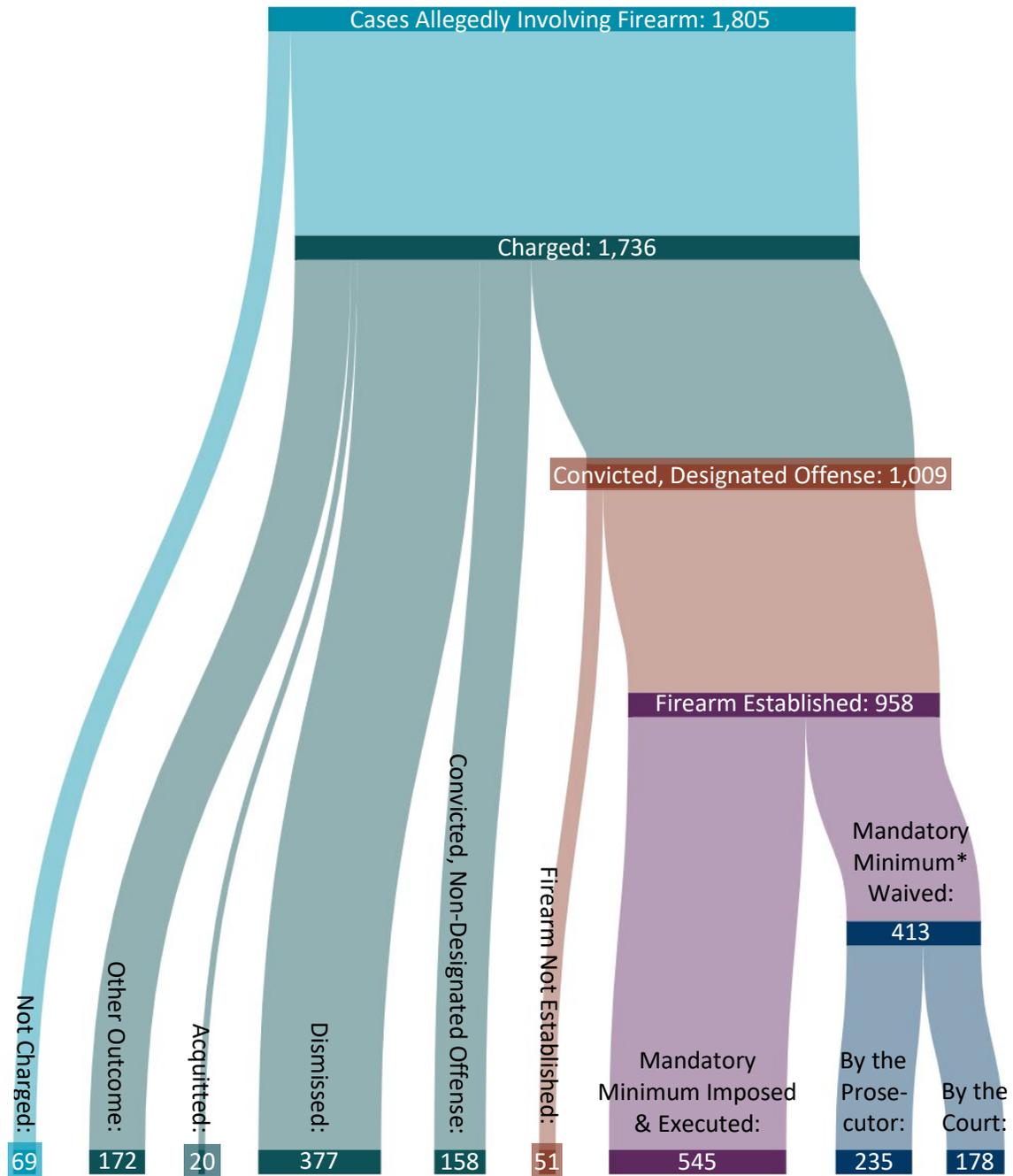
In the cases in which the firearm was established on the record, county attorneys report that 545 cases (57%)<sup>37</sup> were sentenced to the mandatory minimum prison term (Figure 26, “Mandatory Minimum Imposed & Executed”). The statute specifically allows the prosecutor to file a motion to have the defendant sentenced without regard to the mandatory minimum. The prosecutor must provide a statement as to the reasons for the motion. If the court finds substantial mitigating factors, with or without a motion by the prosecutor, the defendant may be sentenced without regard to the mandatory minimum.<sup>38</sup>

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<sup>37</sup> County attorneys’ data for fiscal year 2023 (ending June 30, 2023). According to MSGC monitoring data from calendar year 2022, 956 sentencing worksheets reflected the use or possession of a firearm or prohibited persons from possessing a firearm (excluding ammunition-only cases) requiring a mandatory prison sentence under Minn. Stat. § 609.11. Of those, 51 percent (491 cases) received both the mandatory prison disposition and the mandatory minimum duration or longer. In addition, 12 percent (110 cases) received the mandatory prison disposition, but less than the mandatory minimum duration.

<sup>38</sup> Minn. Stat. § 609.11, subdivision 8. Although [Minn. Stat. § 609.11](#) uses the term “mandatory minimum” to describe the sentences it prescribes, the term includes cases in which the court, on the motion of the prosecutor or on its own motion, is statutorily permitted, when substantial and compelling reasons are present, to sentence a defendant without regard to those prescribed sentences. Minn. Stat. § 609.11, subd. 8(a); but see subd. 8(b) & 8(c) (the court is not permitted to sentence a defendant without regard to the mandatory minimum if the defendant was previously convicted of a designated offense in which the defendant used or possessed a firearm or other dangerous weapon, nor if the defendant or an accomplice used or personally possessed a firearm in the commission of a first- or second-degree sale of a controlled substance).

Figure 26. Disposition of Cases, Alleged Designated Offenses Involving Firearms, as Reported by County Attorneys, Cases Disposed of Between July 1, 2022, and June 30, 2023



\*For an explanation of the term “mandatory minimum,” see footnote 38.

Table 6. County Attorney Firearms Reports on Criminal Cases Allegedly Involving a Firearm, by Minn. County, Cases Disposed of Between July 1, 2022, and June 30, 2023

County	Cases Allegedly Involving Firearm	Charged	Dismissed	Convicted, Non-Designated Offense	Convicted, Designated Offense	Firearm Established	Mandatory Minimum Imposed and Executed
Aitkin	3	2	0	2	0	0	0
Anoka	65	44	10	0	33	33	17
Becker	8	8	0	0	8	7	1
Beltrami	27	18	4	0	12	12	10
Benton	14	13	5	1	6	4	3
Big Stone	2	2	0	2	0	0	0
Blue Earth	25	25	4	2	19	19	19
Brown	4	3	1	1	1	1	0
Carlton	4	4	0	2	1	1	1
Carver	5	5	2	0	3	3	3
Cass	19	19	2	4	13	10	8
Chippewa	7	7	4	0	1	1	1
Chisago	4	4	1	0	3	3	3
Clay	22	20	6	3	8	8	8
Clearwater	4	4	0	0	4	4	3
Cook	0	0	0	0	0	0	0
Cottonwood	1	1	0	0	1	1	1
Crow Wing	17	17	4	4	6	5	2
Dakota	86	86	13	6	60	51	23
Dodge	0	0	0	0	0	0	0
Douglas*							
Faribault	0	0	0	0	0	0	0
Fillmore	5	5	2	0	0	0	0
Freeborn	9	9	0	0	9	5	3
Goodhue	12	12	2	2	8	4	2
Grant	0	0	0	0	0	0	0
Hennepin	773	773	206	34	429	424	222
Houston	3	3	2	0	1	1	0
Hubbard	17	9	0	3	6	3	3

\* This county did not report.

County	Cases Allegedly Involving Firearm	Charged	Dismissed	Convicted, Non-Designated Offense	Convicted, Designated Offense	Firearm Established	Mandatory Minimum Imposed and Executed
Isanti	3	3	0	0	3	3	2
Itasca	9	9	1	3	5	5	2
Jackson	2	2	0	0	2	2	1
Kanabec	6	6	1	0	5	5	4
Kandiyohi	2	2	1	1	0	0	0
Kittson	0	0	0	0	0	0	0
Koochiching	2	2	0	1	0	0	0
Lac qui Parle*							
Lake	0	0	0	0	0	0	0
Lake of the Woods	1	1	0	0	1	1	0
Le Sueur	6	6	1	0	4	4	3
Lincoln	0	0	0	0	0	0	0
Lyon	2	2	1	1	0	0	0
McLeod	5	5	0	3	2	2	2
Mahnomen	1	1	0	0	1	0	0
Marshall	2	2	0	0	2	2	0
Martin	1	1	0	1	0	0	0
Meeker	4	4	2	0	1	0	0
Mille Lacs	47	39	8	14	10	10	7
Morrison	12	12	3	0	4	4	4
Mower	10	10	0	0	9	9	5
Murray	1	1	0	1	0	0	0
Nicollet	5	5	0	1	4	4	2
Nobles	12	12	3	1	7	6	4
Norman	0	0	0	0	0	0	0
Olmsted	21	21	0	7	8	8	2
Otter Tail	8	8	1	3	4	4	3
Pennington	4	3	1	0	2	2	0
Pine	13	7	1	2	4	4	4

\* This county did not report.

County	Cases Allegedly Involving Firearm	Charged	Dismissed	Convicted, Non-Designated Offense	Convicted, Designated Offense	Firearm Established	Mandatory Minimum Imposed and Executed
Pipestone	2	2	0	0	2	1	0
Polk	6	6	0	2	4	4	4
Pope*							
Ramsey	246	245	38	21	163	158	86
Red Lake	0	0	0	0	0	0	0
Redwood	4	4	1	0	3	3	3
Renville	14	9	4	3	2	2	1
Rice	11	11	1	1	7	6	4
Rock	4	4	0	3	1	1	1
Roseau	5	5	2	2	1	0	0
Scott	26	26	5	2	19	19	10
Sherburne	14	9	0	0	9	7	4
Sibley	0	0	0	0	0	0	0
St. Louis	21	21	5	2	12	10	6
Stearns	54	54	11	0	38	37	25
Steele	11	11	1	1	4	4	0
Stevens	1	1	0	0	1	1	1
Swift	1	1	0	0	1	1	1
Todd	2	2	0	1	0	0	0
Traverse	0	0	0	0	0	0	0
Wabasha*							
Wadena	7	7	0	0	6	6	6
Waseca	7	7	2	0	5	3	2
Washington	28	28	8	7	12	12	6
Watonwan	4	4	3	0	0	0	0
Wilkin	2	2	0	1	1	1	1
Winona	4	4	3	1	0	0	0
Wright	13	13	1	4	7	7	6
Yellow Medicine	3	3	0	2	1	0	0
<b>Total</b>	<b>1,805</b>	<b>1,736</b>	<b>377</b>	<b>158</b>	<b>1,009</b>	<b>958</b>	<b>545</b>

\* This county did not report.

# Appendices

## Appendix 1. 2023 Amendments to the Minnesota Sentencing Guidelines and Commentary

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Appendix 1 identifies and explains all modifications to the Minnesota Sentencing Guidelines and Commentary made during the preceding 12 months, as required by Minn. Stat. § 244.09, subd. 11. Each modification was to the August 1, 2022, edition of the Minnesota Sentencing Guidelines and Commentary, and each had a specified effective date of August 1, 2023.\*

These modifications included both proposed modifications that were submitted to the Legislature in the Commission’s 2023 annual report, and modifications that were adopted in response to the 2023 legislative session.

### Modifications Submitted to the Legislature in January 2023

On January 13, 2023, the Commission submitted to the Legislature several proposed modifications to the Sentencing Guidelines. Because the 2023 Legislature enacted no law to the contrary, these changes took effect August 1, 2023.

#### *Modifications Related to Sex Trafficking*

On January 12, 2023, as a result of its legislatively mandated review of how the Sentencing Guidelines address Sex Trafficking ([2021 Minn. Laws 1st Sp. Sess. ch. 11, art. 2, § 54](#)) and after a public hearing, the Commission unanimously proposed—

- To rank Aggravated Sex Trafficking 1st Degree on the Sex Offender Grid at Severity Level A;
- To rank Aggravated Sex Trafficking 2nd Degree on the Sex Offender Grid at Severity Level B; and
- To repeal the existing 48-month sentence modifier that now applies to Aggravated Sex Trafficking.

The Commission also proposed to add the following offenses to the Severe Violent Offense List:

- Sex Trafficking 1st Degree;
- Aggravated Sex Trafficking 1st Degree; and
- Aggravated Sex Trafficking 2nd Degree (Bodily Harm/Debt Bondage/Forced Services).

These modifications—to 2022 Minn. Sentencing Guidelines and Commentary sections 2, 2.G, 4.B, 5.A, 5.B, 6, and 8; and Appendix 3—are shown below.

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\* See Minn. Sentencing Guidelines § 3.G for an explanation of how effective dates are implemented.

### *Technical Modifications*

On January 12, 2023, after a public hearing, the Commission unanimously proposed to remove an unnecessary word in an aggravated departure factor and to list Sexual Extortion as a conditional-release offense. These modifications—to 2022 Minn. Sentencing Guidelines and Commentary sections 2.D.3.b(3) and 2.E.3—are shown below.

### *Changes to the Commentary*

On December 15, 2022, the Commission unanimously proposed to modify Comment 3.C.01 to reference a new statutory jail credit rule and to make a technical correction to the reference to the Rules of Criminal Procedure. These modifications—to 2022 Minn. Sentencing Guidelines and Commentary, Comment 3.C.01—are shown below.

### **Modifications Adopted in Response to the 2023 Legislative Session**

On July 27, 2023, the Commission adopted several modifications to the Minnesota Sentencing Guidelines and Commentary. These modifications were all legislatively mandated, legislatively authorized, or related to crimes created or amended by the Legislature in the 2023 legislative session. These modifications are explained in Table 1 (p. 7), and are shown below. To find the text of a particular modification, please refer to the applicable Guidelines section number set forth in Table 1, and find that section in the modifications below.

*The following are adopted modifications to the 2022 Minn. Sentencing Guidelines and Commentary, effective August 1, 2023:*

## **Minnesota Sentencing Guidelines and Commentary**

### **1. Purpose and Definitions**

\* \* \*

#### **B. Definitions**

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

\* \* \*

5. Departure. A “departure” is a pronounced sentence other than that recommended in the appropriate cell on the applicable Grid, including a stayed or imposed gross misdemeanor or misdemeanor sentence. ~~A stayed sentence with a length of stay other than as provided in section 3.A.2 is also a “departure.”~~

\* \* \*

b. Durational Departure. A “durational departure” occurs when the court orders a sentence with a prison duration other than the presumptive fixed duration or range in the appropriate cell on the applicable Grid ~~or when the court pronounces a length of stay other than as provided in section 3.A.2.~~

(1) Aggravated Durational Departure. An “aggravated durational departure” occurs when the court pronounces a prison duration that is more than 20 percent higher than the fixed duration displayed in the appropriate cell on the applicable Grid ~~or when the court pronounces a length of stay longer than provided in section 3.A.2.~~

\* \* \*

13. Presumptive Sentence. “Presumptive sentences” are those sentences provided on the Sentencing Guidelines Grids ~~and in section 3.A.2.~~ They are presumptive because they are presumed to be appropriate for all typical cases sharing criminal history and offense severity characteristics.

\* \* \*

## 2. Determining Presumptive Sentences

The presumptive sentence for any offender convicted of a felony committed on or after May 1, 1980, is determined by the Sentencing Guidelines in effect on the date of the conviction offense, except that:

- If multiple offenses are an element of the conviction offense, the date of the conviction offense must be determined by the factfinder.
- If offenses have been aggregated under one of the following statutes, or as otherwise permitted by statute, the date of the earliest offense should be used as the date of the conviction offense:

Statute Number	Offense Title
349.2127, subds. 2 and 6	Gambling Regulations

<b>Statute Number</b>	<b>Offense Title</b>
609.322, subd. 1c	Solicitation, Promotion, and Inducement of Prostitution; Sex Trafficking
609.52, subd. 3(5)	Theft
609.527, subd. 7	Identity Theft
609.535, subd. 2a(b)	Issuance of Dishonored Checks
609.551, subd. 3	Rustling and Livestock Theft
609.595	Criminal Damage to Property
609.631, subd. 4	Check Forgery
609.632, subd. 5	Counterfeiting Currency
609.763, subd. 3	Lawful Gambling Fraud
609.821, subd. 3	Financial Transaction Card Fraud
609.86, subd. 3(2)	Commercial Bribery
609.893, subd. 3	Telecommunications Fraud
609.895, subd. 3	Counterfeited Intellectual Property

\* \* \*

## **B. Criminal History**

\* \* \*

### 2. Custody Status at the Time of the Offense.

\* \* \*

c. Additional Duration. An **additional three months** must be added to the duration of the appropriate cell time, which then becomes the presumptive duration, when:

(1) at least one-half custody status point is assigned; and

(2) the offender's total Criminal History Score exceeds the maximum score on the applicable Grid (i.e., 7 or more).

Three months must also be added to the lower and upper end of the range provided in the appropriate cell on the applicable Grid.

If the current conviction is an attempt, conspiracy, or other offense with a sentence modifier that reduces the presumptive sentence, the three months must be added to the cell duration before the duration is reduced as outlined in section 2.G. The presumptive duration, however, cannot be less than one year ~~and one day~~.

\* \* \*

## 5. Convictions from Jurisdictions other than Minnesota

\* \* \*

b. How to Count. Find the equivalent Minnesota offense based on the elements of the prior non-Minnesota offense. The section in which to count the non-Minnesota offense in criminal history depends on:

- whether the offense is defined as a felony, gross misdemeanor, or targeted misdemeanor in Minnesota; **and**
- the sentence imposed.

An offense may be counted as a felony only if it would **both** be defined as a felony in Minnesota, and the offender received a sentence ~~that in Minnesota would be a felony-level sentence of 366 days or more~~, which includes the equivalent of a stay of imposition. The offense definitions in effect when the current Minnesota offense was committed govern the designation of non-Minnesota convictions as felonies, gross misdemeanors, or misdemeanors.

\* \* \*

**2.B.502.** *The Commission concluded that convictions from other jurisdictions must, in fairness, be considered in the computation of an offender's criminal history score. No uniform nationwide characterization of the terms "felony," "gross misdemeanor," and "misdemeanor" exists. Therefore, the Commission recognizes that criminal conduct may be characterized differently by the various state and federal criminal jurisdictions. Generally, the classification of prior offenses as petty misdemeanors,*

*misdemeanors, gross misdemeanors, or felonies should be determined by current Minnesota offense definitions and sentencing policies, except as provided in section 2.B.7. However, with respect to out-of-state offenses, the Commission chose not to apply Minnesota’s 2023 redefinition of “felony,” which now defines a felony as including a 365-day sentence. This is consistent with the Commission’s policy before 2023 and with Minn. Stat. § 609.0342(b)’s treatment of pre-2023 365-day sentences as gross misdemeanor sentences. For example, an assault with a dangerous weapon committed in Texas that received a 364-day 365-day sentence would be given one gross misdemeanor unit due to the sentence length despite being the equivalent by definition of a Minnesota felony second-degree assault.*

\* \* \*

### **C. Presumptive Sentence**

1. Finding the Presumptive Sentence. The presumptive sentence for a felony conviction is found in the appropriate cell on the applicable Grid located at the intersection of the criminal history score (horizontal axis) and the severity level (vertical axis). The conviction offense determines the severity level. The offender’s criminal history score is computed according to section 2.B above.
  - a. Presumptive Disposition. For cases contained in cells outside of the shaded areas, the sentence should be executed. For cases contained in cells within the shaded areas, the sentence should be stayed unless the conviction offense carries a mandatory minimum sentence. Section 3.A governs conditions of stayed sentences.
  - b. Presumptive Duration. Each cell on the Grids provides a fixed sentence duration. If a cell, or other Guidelines policy, provides a fixed sentence duration of 12 months, a sentence duration of one year and one day is permissible without departure. Minn. Stat. § 244.09 requires that the Guidelines provide a range for sentences that are presumptive commitments. For cells above the solid line, the Guidelines provide both a fixed presumptive duration and a range of time for that sentence except as provided in section 2.C.3.c(1). The shaded areas of the grids do not display ranges. If the duration for a sentence that is a presumptive commitment is found in a shaded area, the standard range – 15 percent lower and 20 percent higher than the fixed duration displayed – is permissible without departure, provided that the minimum sentence is not less than one year ~~and one day~~, and the maximum sentence is not more than the statutory maximum.

\* \* \*

#### **D. Departures from the Guidelines**

1. Departures in General. The sentences provided in the Grids are presumed to be appropriate for the crimes to which they apply. The court must pronounce a sentence of the applicable disposition, and within the applicable prison range, ~~and within the applicable length of stay,~~ unless there exist identifiable, substantial, and compelling circumstances to support a departure.

The court may depart from the presumptive disposition or duration provided in the Guidelines, and stay or impose a sentence that is deemed to be more appropriate than the presumptive sentence. A pronounced sentence for a felony conviction that is outside the appropriate prison range on the applicable Grid, including a stayed or imposed gross misdemeanor or misdemeanor sentence, is a departure from the Guidelines. ~~A stayed sentence with a length of stay other than as provided in section 3.A.2 is also a departure from the Guidelines.~~ A departure is not controlled by the Guidelines, but rather, is an exercise of judicial discretion constrained by statute or case law.

\* \* \*

3. Factors that may be used as Reasons for Departure. The following is a nonexclusive list of factors that may be used as reasons for departure:

\* \* \*

- b. Aggravating Factors.

\* \* \*

- (3) The current conviction is for a criminal sexual conduct offense, or an offense in which the victim was otherwise injured, and ~~is~~ the offender has a prior felony conviction for a criminal sexual conduct offense or an offense in which the victim was otherwise injured.

\* \* \*

(11) The offender intentionally selected the victim or the property against which the offense was committed, in whole or in substantial part, because of the victim's, the property owner's, or another's actual or perceived race, color, ethnicity, religion, sex, gender, sexual orientation, gender identity, gender expression, age, national origin, or disability as defined in Minn. Stat. § 363A.03, ~~age, or national origin~~ or because of the victim's actual or perceived association with another person or group of a certain actual or perceived race, color, ethnicity, religion, sex, gender, sexual orientation, gender identity, gender expression, age, national origin, or disability as defined in Minn. Stat. § 363A.03.

\* \* \*

**2.D.308.** *The aggravating factor involving bias motivation under section 2.D.3.b(11) cannot be used when sentencing an offender for a crime with an increased statutory maximum penalty under Minn. Stat. § 609.2233 (felony assault motivated by bias), or for a crime that was elevated to a felony offense because of bias motivation (e.g., Minn. Stat. §§ 609.2231, subd. 4 (fourth-degree assault); 609.595, subd. 1a(a) (criminal damage to property); 609.749, subd. 3(a)(1) (harassment)). The Commission intends that a penalty for a bias-motivated offense be subject to enhancement only once.*

*In determining when domestic violence, sexual assault and sexual abuse cases are motivated by a victim's sex, gender, sexual orientation, gender identity, or gender expression and may be appropriately enhanced, proof must be shown of at least one factor, such as: offender makes abusive or derogatory references based on sex, gender, sexual orientation, gender identity, or gender expression; offender states hatred for a sex, gender, sexual orientation, gender identity, or gender expression as a class; crime involves excessive violence, including mutilation; or there are multiple victims of the same sex, gender, sexual orientation, gender identity, or gender expression.*

\* \* \*

## **E. Mandatory Sentences**

\* \* \*

3. Conditional Release. Several Minnesota statutes provide for mandatory conditional release terms that must be served by certain offenders once they are released from

prison. The court must pronounce the conditional release term when sentencing for the following offenses:

- First-degree (felony) driving while impaired. Minn. Stat. § 169A.276, subd. 1(d).
- Predatory offense registration violation committed by certain offenders. Minn. Stat. § 243.166, subd. 5a.
- Assault in the fourth degree against secure treatment facility personnel. Minn. Stat. § 609.2231, subd. 3a(e).
- First- through fourth-degree criminal sexual conduct, sexual extortion, and criminal sexual predatory conduct. Minn. Stat. § 609.3455, subds. ~~6–8~~. 6–8.
- Use of minors in sexual performance. Minn. Stat. § 617.246, subd. 7.
- Child pornography. Minn. Stat. § 617.247, subd. 9.

\* \* \*

**2.E.02.** *When the mandatory minimum sentence is ~~for less than one year and one day~~, the Commission interprets the minimum to mean any incarceration including time spent in local confinement as a condition of a stayed sentence. The presumptive disposition is not commitment unless the case falls above the dispositional line on the applicable Grid. ~~An example is a conviction for a Fifth-Degree Controlled Substance Crime. If the offender has previously been convicted of a controlled substance crime, the mandatory minimum law requires at least six months incarceration, which can be served in a local jail or workhouse.~~*

\* \* \*

## F. Concurrent/Consecutive Sentences

\* \* \*

**2.F.103.** *A concurrent sentence is presumptive if ~~the result is that an offender will serve~~ it results in a longer time to serve in prison. For example, an inmate with a Criminal History Score of 6 assaults a prison guard ~~during his term of imprisonment and has only one month remaining until his~~ before supervised*

release ~~term~~ is scheduled to begin. The Guidelines would typically recommend that the assault run consecutively to the unexpired prior except that a concurrent sentence is longer; therefore, a concurrent sentence is presumptive.

$$\begin{array}{rcl} & 1 \text{ month} & \text{(before scheduled supervised release date)} \\ + & 12 \text{ months } \text{mes. and } 1 & \text{(Severity Level 1; Criminal History Score of 1)} \\ & \text{day} & \\ = & \underline{13 \text{ months } \text{mes. and } 1} & \text{consecutive} \\ & \text{day,} & \end{array}$$

vs.

19 months, concurrent (Severity Level 1; Criminal History Score of 6).

\* \* \*

## G. Convictions for Attempts, Conspiracies, and Other Sentence Modifiers

\* \* \*

1. In General. Sentence modifiers are statutes or policies that aid in defining the punishment for the underlying offense. Modifiers can affect either or both the duration and the disposition of the presumptive sentence. Any change to the presumptive fixed sentence under this section must also be applied to the upper and lower ends of the range found in the appropriate cell on the applicable Grid, except that the presumptive sentence cannot be less than one year ~~and one day~~, nor can it be less than any applicable mandatory minimum.
2. Attempt or Conspiracy. ~~When an offender is sentenced for~~ For an attempted offense under Minn. Stat. § 609.17 or for conspiracy to commit an offense under Minn. Stat. § 609.175, the presumptive duration is one-half of that found in the appropriate cell on the applicable Grid for the underlying offense. When the underlying offense has a mandatory minimum sentence of a year ~~and a day~~ or more, the presumptive duration is the mandatory minimum sentence in statute or one-half the duration found in the appropriate cell on the applicable Grid, whichever is longer.

\* \* \*

- ~~9. Solicitation or Promotion of Prostitution; Sex Trafficking. When an offender is sentenced for Solicitation or Promotion of Prostitution or Sex Trafficking under Minn. Stat. § 609.322, subd. 1(b), the presumptive sentence 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:

a. ~~48 months, if the underlying crime was completed; or~~

b. ~~24 months, if the underlying crime was an attempt or conspiracy.~~

9. ~~40. Offense Committed for the Benefit of a Gang.~~ \* \* \*

10. ~~41. Felony Assault Motivated by Bias.~~ \* \* \*

11. ~~42. Criminal Vehicular Homicide (Death or Death to an Unborn Child, and Qualified Prior Conviction).~~

12. ~~43. Attempt or Conspiracy to Commit First-Degree Murder.~~ When an offender is sentenced for attempt or conspiracy to commit murder in the first degree under Minn. Stat. § 609.185 or murder of an unborn child in the first degree under Minn. Stat. § 609.2661, the presumptive disposition is commitment. The presumptive durations are as follows:

SEVERITY LEVEL OF CONVICTION OFFENSE	CRIMINAL HISTORY SCORE						
	0	1	2	3	4	5	6 or more
<i>Conspiracy / Attempted Murder, 1st Degree</i>	180 <i>153-216</i>	190 <i>162-228</i>	200 <i>170-240</i>	210 <i>179-240<sup>1</sup></i>	220 <i>187-240<sup>1</sup></i>	230 <i>196-240<sup>1</sup></i>	240 <i>204-240<sup>1</sup></i>

<sup>1</sup> 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 one day~~ and the maximum sentence is not more than the statutory maximum. See section 2.C.1-2.

13. ~~44. Second or Subsequent Severe Violent Offense.~~

\* \* \*

### 3. Related Policies

#### A. Establishing Conditions of Stayed Sentences

1. Method of Granting Stayed Sentences. When the court orders a stayed sentence, the court may pronounce a stay of execution or a stay of imposition. The court must pronounce the length of the stay, which may exceed the duration of the presumptive prison sentence but not the maximum length of stay established in Minn. Stat. § 609.135, subd. 2. The court ~~as provided in section 3.A.2 and~~ may establish appropriate conditions subject to the considerations in section ~~3.A.3.~~ 3.A.2.

\* \* \*

2. Length of Stay.

- a. ~~When the court stays execution or imposition of sentence for a felony offense, including an attempt or conspiracy, the pronounced length of stay must not exceed five years or the length of the statutory maximum punishment, whichever is less, unless the court identifies and articulates substantial and compelling reasons to support a departure from this rule.~~
- b. ~~Subject to the limitation in section 3.A.2.a, the pronounced length of stay may exceed the presumptive prison sentence duration provided in the appropriate cell on the applicable Grid.~~
- c. ~~If the court by departure exceeds the limitation in section 3.A.2.a, the length of stay must not exceed the statutory maximum punishment for the offense.~~
- d. ~~The limitation in section 3.A.2.a does not apply to a sentence for a violation of Minn. Stat. § 609.19 (Murder 2nd Degree), 609.195 (Murder 3rd Degree), 609.20 (Manslaughter 1st Degree), 609.2112 (Criminal Vehicular Homicide), 609.2662 (Murder of an Unborn Child 2nd Degree), 609.2663 (Murder of an Unborn Child 3rd Degree), 609.2664 (Manslaughter of an Unborn Child 1st Degree), 609.268 (Death or Injury of an Unborn Child in Comm. of Crime), 609.342 (Criminal Sexual Conduct 1st Degree), 609.343 (Criminal Sexual Conduct 2nd Degree), 609.344 (Criminal Sexual Conduct 3rd Degree), 609.345 (Criminal Sexual~~

Conduct 4th Degree), 609.3451 (Criminal Sexual Conduct 5th Degree), or 609.3458 (Sexual Extortion).

e. ~~Extensions of probation are governed by statute (see Minn. Stat. § 609.135, subd. 2(g)-(h)).~~

*Comment*

~~**3.A.201. 3.A.102.** When a court grants a stayed sentence, the duration of the stayed sentence may exceed the presumptive sentence length indicated in the appropriate cell on the applicable Grid, and may be as long as the statutory maximum punishment for the conviction offense. See maximum length of stay provided in Minn. Stat. § 609.135, subd. 2—for most offenses, no more than five years. Absent substantial and compelling reasons to depart, however, the length of the stay may not exceed five years, unless the current offense is a homicide or criminal sexual conduct offense, including an attempt or conspiracy. Thus, for an offender convicted of a sentence for Theft over \$5,000 (Severity Level 3), with a Criminal History Score of 1, the duration of the stay could be up to five years—or, upon a finding of substantial and compelling reasons to depart, up to ten years. Regardless of the length of stay, the 13-month sentence shown in the Guidelines is the presumptive sentence length and, if imposed, would be executed if: (a) the court departs from the dispositional recommendation and decides to execute the sentence; or (b) the stay is later revoked and the court decides to imprison the offender.~~

~~**3.A.202.** Before section 3.A.2.a took effect, case law required durational departures to be based on the nature of the offense rather than on the individual characteristics of the offender. See *State v. Solberg*, 882 N.W.2d 618, 625 (Minn. 2016). Although a pronounced length of stay longer than provided in section 3.A.2 is defined as an aggravated durational departure, the Commission recognizes that judicial considerations for pronouncing a longer than recommended length of stay may differ substantially from considerations for imposing a longer than recommended prison duration. As a result of these differences, the individual characteristics of the offender may be relevant to the district court’s finding of substantial and compelling reasons justifying a longer than recommended length of stay.~~

~~**3.A.203.** Within section 3.A.2, “statutory maximum punishment” refers to the applicable maximum period for a stay of sentence established in statute. For most felonies, this is the maximum period for which the sentence of imprisonment might have been imposed, but, for some felonies, this is four or six years. Minn. Stat § 609.135, subd. 2(a)-(b).~~

3-2. Other Conditions of Stayed Sentences.

\* \* \*

Comment

~~**3.A.301.**~~ **3.A.201.** *The court may attach any conditions to a stayed sentence that are permitted by law and that the court deems appropriate. The Guidelines neither enlarge nor restrict the conditions that courts may attach to a stayed sentence. Minn. Stat. § 244.09, subd. 5 permits, but does not require, the Commission to establish guidelines covering conditions of stayed sentences. ~~The~~ In 2020, the Commission has developed such guidelines with respect to the pronounced length of stay—stay—which the Legislature essentially codified in 2023 Minn. Laws ch. 52, art. 6, § 13—and in section 3.A.2, and has provided additional, general direction in the use of conditions of stayed sentences in the above section.*

~~**3.A.302.**~~ **3.A.202.** *While the Commission has otherwise not developed guidelines for nonimprisonment sanctions, the Commission believes it is important for the sentencing courts to consider proportionality when pronouncing a period of local confinement as a condition of probation. This is particularly important given Minn. Stat. § 609.135, subd. 7, which states when an offender may not demand execution of sentence. The period of local confinement should be proportional to the severity of the conviction offense and the criminal history score of the offender. Therefore, the period of local confinement should not exceed the term of imprisonment that would be served if the offender were to have received an executed prison sentence according to the presumptive Guidelines duration.*

\* \* \*

### C. Jail Credit

\* \* \*

Comment

**3.C.01.** *Jail credit is governed by statute and rule – see, e.g., Minn. Stat. §§ 609.145 & 611.51 and Minn. R. Crim. P. 27.03, subd. 4(b) 4(B) – and a great deal of case law. Granting jail credit to the time served in custody in connection with an offense ensures that a defendant who cannot post bail because of indigency will serve the same amount of time that an offender in identical circumstances who is able to post bail would serve. Also, the total amount of time a defendant is incarcerated should not turn on irrelevant concerns such as whether the defendant pleads guilty or insists on his right to trial.*

\* \* \*

#### 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.

#### CRIMINAL HISTORY SCORE

SEVERITY LEVEL OF CONVICTION OFFENSE (Example offenses listed in italics)		0	1	2	3	4	5	6 or more
<i>Murder, 2nd Degree (Intentional; Drive-By-Shootings)</i>	<b>11</b>	306 <i>261-367</i>	326 <i>278-391</i>	346 <i>295-415</i>	366 <i>312-439</i>	386 <i>329-463</i>	406 <i>346-480<sup>2,1</sup></i>	426 <i>363-480<sup>2,1</sup></i>
<i>Murder, 2nd Degree (Unintentional)</i> <i>Murder, 3rd Degree (Depraved Mind)</i>	<b>10</b>	150 <i>128-180</i>	165 <i>141-198</i>	180 <i>153-216</i>	195 <i>166-234</i>	210 <i>179-252</i>	225 <i>192-270</i>	240 <i>204-288</i>
<i>Murder, 3rd Degree (Drugs)</i> <i>Assault, 1st Degree (Great Bodily Harm)</i>	<b>9</b>	86 <i>74-103</i>	98 <i>84-117</i>	110 <i>94-132</i>	122 <i>104-146</i>	134 <i>114-160</i>	146 <i>125-175</i>	158 <i>135-189</i>
<i>Agg. Robbery, 1st Degree</i> <i>Burglary, 1st Degree (w/ Weapon or Assault)</i>	<b>8</b>	48 <i>41-57</i>	58 <i>50-69</i>	68 <i>58-81</i>	78 <i>67-93</i>	88 <i>75-105</i>	98 <i>84-117</i>	108 <i>92-129</i>
<i>Felony DWI</i> <i>Financial Exploitation of a Vulnerable Adult</i>	<b>7</b>	36	42	48	54 <i>46-64</i>	60 <i>51-72</i>	66 <i>57-79</i>	72 <i>62-84<sup>2,3,1,2</sup></i>
<i>Assault, 2nd Degree</i> <i>Burglary, 1st Degree (Occupied Dwelling)</i>	<b>6</b>	21	27	33	39 <i>34-46</i>	45 <i>39-54</i>	51 <i>44-61</i>	57 <i>49-68</i>
<i>Residential Burglary</i> <i>Simple Robbery</i>	<b>5</b>	18	23	28	33 <i>29-39</i>	38 <i>33-45</i>	43 <i>37-51</i>	48 <i>41-57</i>
<i>Nonresidential Burglary</i>	<b>4</b>	12 <sup>1</sup>	15	18	21	24 <i>21-28</i>	27 <i>23-32</i>	30 <i>26-36</i>
<i>Theft Crimes (Over \$5,000)</i>	<b>3</b>	12 <sup>1</sup>	13	15	17	19 <i>17-22</i>	21 <i>18-25</i>	23 <i>20-27</i>
<i>Theft Crimes (\$5,000 or less)</i> <i>Check Forgery (\$251-\$2,500)</i>	<b>2</b>	12 <sup>1</sup>	12 <sup>1</sup>	13	15	17	19	21 <i>18-25</i>
<i>Assault, 4th Degree</i> <i>Fleeing a Peace Officer</i>	<b>1</b>	12 <sup>1</sup>	12 <sup>1</sup>	12 <sup>1</sup>	13	15	17	19 <i>17-22</i>

<sup>1</sup> 12<sup>1</sup> = One year and one day

 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 ~~one year~~ 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.

<sup>2,1</sup> 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 one day~~ and the maximum sentence is not more than the statutory maximum. See section 2.C.1-2.

<sup>3,2</sup> ~~The stat. max. for Financial Exploitation of Vulnerable Adult is 240 months;~~ 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.)

**Examples of Executed Sentences (Length in Months) Broken Down by:  
Term of Imprisonment and Supervised Release Term**

*Under Minn. Stat. § 244.101, offenders committed to the Commissioner of Corrections for crimes committed on or after August 1, 1993 will receive an executed sentence pronounced by the court consisting of two parts: a specified minimum term of imprisonment equal to two-thirds of the total executed sentence and a supervised release term equal to the remaining one-third. The court is required to pronounce the total executed sentence and explain the amount of time the offender will serve in prison and the amount of time the offender will serve on supervised release, assuming the offender commits no disciplinary offense in prison that results in the imposition of a disciplinary confinement period. The court must also explain that the amount of time the offender actually serves in prison may be extended by the Commissioner if the offender violates disciplinary rules while in prison or violates conditions of supervised release. This extension period could result in the offender's serving the entire executed sentence in prison.*

<b>Executed Sentence</b>	<b>Term of Imprisonment</b>	<b>Supervised Release Term</b>	<b>Executed Sentence</b>	<b>Term of Imprisonment</b>	<b>Supervised Release Term</b>
12 and 1 day	8 and 1 day	4	78	52	26
13	8 <sup>2</sup> / <sub>3</sub>	4 <sup>1</sup> / <sub>3</sub>	86	57 <sup>1</sup> / <sub>3</sub>	28 <sup>2</sup> / <sub>3</sub>
15	10	5	88	58 <sup>2</sup> / <sub>3</sub>	29 <sup>1</sup> / <sub>3</sub>
17	11 <sup>1</sup> / <sub>3</sub>	5 <sup>2</sup> / <sub>3</sub>	98	65 <sup>1</sup> / <sub>3</sub>	32 <sup>2</sup> / <sub>3</sub>
18	12	6	108	72	36
19	12 <sup>2</sup> / <sub>3</sub>	6 <sup>1</sup> / <sub>3</sub>	110	73 <sup>1</sup> / <sub>3</sub>	36 <sup>2</sup> / <sub>3</sub>
21	14	7	122	81 <sup>1</sup> / <sub>3</sub>	40 <sup>2</sup> / <sub>3</sub>
23	15 <sup>1</sup> / <sub>3</sub>	7 <sup>2</sup> / <sub>3</sub>	134	89 <sup>1</sup> / <sub>3</sub>	44 <sup>2</sup> / <sub>3</sub>
24	16	8	146	97 <sup>1</sup> / <sub>3</sub>	48 <sup>2</sup> / <sub>3</sub>
27	18	9	150	100	50
28	18 <sup>2</sup> / <sub>3</sub>	9 <sup>1</sup> / <sub>3</sub>	158	105 <sup>1</sup> / <sub>3</sub>	52 <sup>2</sup> / <sub>3</sub>
30	20	10	165	110	55
33	22	11	180	120	60
36	24	12	190	126 <sup>2</sup> / <sub>3</sub>	63 <sup>1</sup> / <sub>3</sub>
38	25 <sup>1</sup> / <sub>3</sub>	12 <sup>2</sup> / <sub>3</sub>	195	130	65
39	26	13	200	133 <sup>1</sup> / <sub>3</sub>	66 <sup>2</sup> / <sub>3</sub>
42	28	14	210	140	70
43	28 <sup>2</sup> / <sub>3</sub>	14 <sup>1</sup> / <sub>3</sub>	220	146 <sup>2</sup> / <sub>3</sub>	73 <sup>1</sup> / <sub>3</sub>
45	30	15	225	150	75
48	32	16	230	153 <sup>1</sup> / <sub>3</sub>	76 <sup>2</sup> / <sub>3</sub>
51	34	17	240	160	80
54	36	18	306	204	102
57	38	19	326	217 <sup>1</sup> / <sub>3</sub>	108 <sup>2</sup> / <sub>3</sub>
58	38 <sup>2</sup> / <sub>3</sub>	19 <sup>1</sup> / <sub>3</sub>	346	230 <sup>2</sup> / <sub>3</sub>	115 <sup>1</sup> / <sub>3</sub>
60	40	20	366	244	122
66	44	22	386	257 <sup>1</sup> / <sub>3</sub>	128 <sup>2</sup> / <sub>3</sub>
68	45 <sup>1</sup> / <sub>3</sub>	22 <sup>2</sup> / <sub>3</sub>	406	270 <sup>2</sup> / <sub>3</sub>	135 <sup>1</sup> / <sub>3</sub>
72	48	24	426	284	142

#### 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
<i>Criminal Sexual Conduct (CSC) 1st Degree</i>	<b>A</b>	144	156	168	180	234	306	360
		<i>144<sup>2</sup>-172</i>	<i>144<sup>2</sup>-187</i>	<i>144<sup>2</sup>-201</i>	<i>153-216</i>	<i>199-280</i>	<i>261-360</i>	<i>306-360<sup>23</sup></i>
<i>CSC 2nd Degree-1(a)(b)(c)(d)(e) 1a(a)(b)(c)(d)(h)(i) (e.g., contact &amp; force with bodily harm)</i>	<b>B</b>	90	110	130	150	195	255	300
		<i>90<sup>23</sup>-108</i>	<i>94-132</i>	<i>111-156</i>	<i>128-180</i>	<i>166-234</i>	<del><i>217-300</i></del> <i>306</i>	<del><i>255-300<sup>2</sup></i></del> <i>360</i>
<i>CSC 3rd Degree-1(a)(b)(c)(d) 1a(c)(d)(g)(h)(i) (e.g., penetration &amp; coercion/occupation)</i>	<b>C</b>	48	62	76	90	117	153	180
		<i>41-57</i>	<i>53-74</i>	<i>65-91</i>	<i>77-108</i>	<i>100-140</i>	<i>131-183</i>	<i>153-216</i>
<i>CSC 2nd Degree-1a(e)(f)(g) (age) CSC 3rd Degree-1a(a)(e)(f) or 1a(b) with 2(1) (age)</i>	<b>D</b>	36	48	60	70	91	119	140
				<i>51-72</i>	<i>60-84</i>	<i>78-109</i>	<i>102-142</i>	<i>119-168</i>
<i>CSC 4th Degree-1(a)(b)(c)(d) 1a(c)(d)(g)(h)(i) (e.g., contact &amp; coercion/occupation)</i>	<b>E</b>	24	36	48	60	78	102	120
					<i>51-72</i>	<i>67-93</i>	<i>87-120</i>	<i>102-120<sup>23</sup></i>
<i>CSC 4th Degree-1a(a)(b)(e)(f) (age) CSC 5th Degree-3(b) (subsequent)</i>	<b>F</b>	18	27	36	45	59	77	84
					<i>39-54</i>	<i>51-70</i>	<i>66-92</i>	<i>72-100</i>
<i>CSC 3rd Degree-1a(b) with 2(2) Possession of Child Pornography Solicit Child for Sexual Conduct</i>	<b>G</b>	15	20	25	30	39	51	60
						<i>34-46</i>	<i>44-60</i>	<i>51-60<sup>23</sup></i>
<i>CSC 5th Degree-3(a) (nonconsensual penetration)</i>	<b>H</b>	12 <sup>1</sup>	14	16	18	24	24 <sup>23</sup>	24 <sup>23</sup>
							<i>24-24</i>	<i>24-24</i>
<i>Failure to Register as a Predatory Offender</i>	<b>I</b>	12 <sup>1</sup>	14	16	18	24	30	36
		<i>12<sup>1</sup>-14</i>	<i>12<sup>1</sup>-16</i>	<i>14-19</i>	<i>16-21</i>	<i>21-28</i>	<i>26-36</i>	<i>31-43</i>

<sup>1</sup> 12<sup>1</sup>=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 ~~one year~~ 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.

<sup>2</sup> 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.)

<sup>23</sup> 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 one day 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.

<sup>3</sup> ~~Solicits, Promotes, or Receives Profit Derived from Prostitution; Sex Trafficking 1st Degree is not subject to a 90-month minimum statutory presumptive sentence so the standard range of 15% lower and 20% higher than the fixed duration applies. (The range is 77-108.)~~

\* \* \*

#### 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
<i>Aggravated Controlled Substance Crime, 1st Degree Manufacture of Any Amt. Meth</i>	<b>D9</b>	86	98	110	122	134	146	158
		<i>74*-103</i>	<i>84*-117</i>	<i>94*-132</i>	<i>104*-146</i>	<i>114*-160</i>	<i>125*-175</i>	<i>135*-189</i>
<i>Controlled Substance Crime, 1st Degree</i>	<b>D8</b>	65	75	85	95	105	115	125
		<i>56*-78</i>	<i>64*-90</i>	<i>73*-102</i>	<i>81*-114</i>	<i>90*-126</i>	<i>98*-138</i>	<i>107*-150</i>
<i>Controlled Substance Crime, 2nd Degree</i>	<b>D7</b>	48	58	68	78	88	98	108
				<i>58-81</i>	<i>67-93</i>	<i>75-105</i>	<i>84-117</i>	<i>92-129</i>
<i>Controlled Substance Crime, 3rd Degree Failure to Affix Stamp</i>	<b>D6</b>	21	27	33	39	45	51	57
					<i>34-46</i>	<i>39-54</i>	<i>44-61</i>	<i>49-68</i>
<i>Possess Substances with Intent to Manufacture Meth</i>	<b>D5</b>	18	23	28	33	38	43	48
					<i>29-39</i>	<i>33-45</i>	<i>37-51</i>	<i>41-57</i>
<i>Controlled Substance Crime, 4th Degree</i>	<b>D4</b>	12 <sup>1</sup>	15	18	21	24	27	30
						<i>21-28</i>	<i>23-32</i>	<i>26-36</i>
<i>Meth Crimes Involving Children and Vulnerable Adults</i>	<b>D3</b>	12 <sup>1</sup>	13	15	17	19	21	23
						<i>17-22</i>	<i>18-25</i>	<i>20-27</i>
<i>Controlled Substance Crime, 5th Degree</i>	<b>D2</b>	12 <sup>1</sup>	12 <sup>1</sup>	13	15	17	19	21
								<i>18-25</i>
<i>Sale of Simulated Controlled Substance</i>	<b>D1</b>	12 <sup>1</sup>	12 <sup>1</sup>	12 <sup>1</sup>	13	15	17	19
								<i>17-22</i>

\* Lower range may not apply. See section 2.C.3.c(1) and Minn. Stat. § 152.021, subdivisions 3(c) & 3(d).

<sup>1</sup> 12<sup>1</sup>—One year and one day



Presumptive commitment to state imprisonment.



Presumptive stayed sentence; at the discretion of the court, up to ~~one year~~ 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.

**Examples of Executed Sentences (Length in Months) Broken Down by:  
Term of Imprisonment and Supervised Release Term**

*Under Minn. Stat. § 244.101, offenders committed to the Commissioner of Corrections for crimes committed on or after August 1, 1993 will receive an executed sentence pronounced by the court consisting of two parts: a specified minimum term of imprisonment equal to two-thirds of the total executed sentence and a supervised release term equal to the remaining one-third. The court is required to pronounce the total executed sentence and explain the amount of time the offender will serve in prison and the amount of time the offender will serve on supervised release, assuming the offender commits no disciplinary offense in prison that results in the imposition of a disciplinary confinement period. The court must also explain that the amount of time the offender actually serves in prison may be extended by the Commissioner if the offender violates disciplinary rules while in prison or violates conditions of supervised release. This extension period could result in the offender's serving the entire executed sentence in prison.*

Executed Sentence	Term of Imprisonment	Supervised Release Term	Executed Sentence	Term of Imprisonment	Supervised Release Term
12-and 1 day	8-and 1 day	4	58	38 2/3	19 1/3
13	8 2/3	4 1/3	65	43 1/3	21 2/3
15	10	5	68	45 1/3	22 2/3
17	11 1/3	5 2/3	75	50	25
18	12	6	78	52	26
19	12 2/3	6 1/3	85	56 2/3	28 1/3
21	14	7	86	57 1/3	28 2/3
23	15 1/3	7 2/3	88	58 2/3	29 1/3
24	16	8	95	63 1/3	31 2/3
27	18	9	98	65 1/3	32 2/3
28	18 2/3	9 1/3	105	70	35
30	20	10	108	72	36
33	22	11	110	73 1/3	36 2/3
38	25 1/3	12 2/3	115	76 2/3	38 1/3
39	26	13	122	81 1/3	40 2/3
43	28 2/3	14 1/3	125	83 1/3	41 2/3
45	30	15	134	89 1/3	44 2/3
48	32	16	146	97 1/3	48 2/3
51	34	17	158	105 1/3	52 2/3
57	38	19			

### 5.A. Offense Severity Reference Table

Offenses subject to a mandatory life sentence, including first-degree murder and certain sex offenses under Minn. Stat. § 609.3455, subdivision 2, are excluded from the Guidelines by law.

<b>Severity Level</b>	<b>Offense Title</b>	<b>Statute Number</b>
11	Adulteration	609.687, subd. 3(1)
	Assault 1st Degree (Great Bodily Harm Upon Official by Dangerous Weapon or Deadly Force)	609.221, subd. 4
	Murder 2nd Degree (Intentional Murder; Unintentional Drive-By Shootings)	609.19, subd. 1
	Murder of an Unborn Child 2nd Degree	609.2662(1)
10	Assault 1st Degree (Great Bodily Harm Upon Official)	609.221, subd. 3
	Fleeing a Peace Officer (Death)	609.487, subd. 4(a)
	Murder 2nd Degree (Unintentional Murder)	609.19, subd. 2
	Murder of an Unborn Child 2nd Degree	609.2662(2)
	Murder 3rd Degree	609.195(a)
	Murder of an Unborn Child 3rd Degree	609.2663
9	Assault 1st Degree (Deadly Force Against Official)	609.221, subd. 2
	Assault 1st Degree (Great Bodily Harm)	609.221, subd. 1
	Assault of an Unborn Child 1st Degree	609.267
	<u>Carjacking 1st Degree</u>	<u>609.247, subd. 2</u>
	Criminal Abuse of Vulnerable Adult (Death)	609.2325, subd. 3(1)
	Death of an Unborn Child in the Commission of Crime	609.268, subd. 1
	Engage or Hire a Minor to Engage in Prostitution	609.324, subd. 1(a)
	Kidnapping (Great Bodily Harm)	609.25, subd. 2(2)(ii)
	<u>Labor Trafficking (Death)</u>	<u>609.282, subd. 1</u>
	Manslaughter 1st Degree	609.20(1),(2) & (5)
	Manslaughter of an Unborn Child 1st Degree	609.2664(1) & (2)
	Murder 3rd Degree	609.195(b)
Tampering with Witness, Aggravated 1st Degree	609.498, subd. 1b	

<b>Severity Level</b>	<b>Offense Title</b>	<b>Statute Number</b>
8	Aggravated Robbery 1st Degree	609.245, subd. 1
	Arson 1st Degree	609.561
	Burglary 1st Degree (w/Weapon or Assault)	609.582, 1(b) & (c)
	Child Torture	609.3775
	Criminal Abuse of Vulnerable Adult (Great Bodily Harm)	609.2325, subd. 3(2)
	Criminal Vehicular Homicide (Death)	609.2112, subd. 1(a)
	Criminal Vehicular Homicide (Death, and Qualified Prior Conviction)	609.2112, subd. 1(b)
	Criminal Vehicular Operation (Death to an Unborn Child)	609.2114, subd. 1(a)
	Criminal Vehicular Operation (Death to an Unborn Child, and Qualified Prior Conviction)	609.2114, subd. 1(b)
	Deprivation of Vulnerable Adult (Great Bodily Harm)	609.233, subd. 3(1)
	Drive-By Shooting (Toward a Person or Occupied Motor Vehicle or Building)	609.66, subd. 1e(a)(2) & (3)
	<del>Emergency Telephone Calls and Communications (Reporting Fictitious Emergency Resulting in Serious Injury or Death)</del>	<del>609.78, subd. 2a</del>
	Escape with Violence from Felony Offense	609.485, subd. 4(b)
	<u>Fictitious Emergency Call (Great Bodily Harm or Death)</u>	<u>609.78, subd. 2a(1)</u>
	Great Bodily Harm Caused by Distribution of Drugs	609.228
	Identity Theft (8 or More Direct Victims or Loss Over \$35,000)	609.527, subd. 3(5)
	Identity Theft (Related to Child Pornography)	609.527, subd. 3(6)
	Kidnapping (Not <u>Released</u> in Safe Place or Victim Under 16)	609.25, subd. 2(2)(i) & (iii)
	<u>Labor Trafficking (Great Bodily Harm)</u>	<u>609.282, subd. 1a(3)</u>
	<u>Labor Trafficking (Minor Victim)</u>	<u>609.282, subd. 1a(1)</u>
	<u>Machine Gun, Trigger Activator, or Conversion Kit</u>	<u>609.67, subd. 2(a)</u>
Malicious Punishment of Child (Great Bodily Harm)	609.377, subd. 6	

<b>Severity Level</b>	<b>Offense Title</b>	<b>Statute Number</b>
	Manslaughter 1st Degree	609.20 (3) & (4)
	Manslaughter of an Unborn Child 1st Degree	609.2664(3)
	Manslaughter 2nd Degree – Culpable Negligence	609.205(1) & (5)
	Manslaughter of an Unborn Child 2nd Degree	609.2665(1)
	Riot 1st Degree	609.71, subd. 1
	Wildfire Arson (Damage over 100 Dwellings, Burns 1,500 Acres or More, or Crops in Excess of \$250,000)	609.5641 subd. 1a(c)
7	<u>Carjacking 2nd Degree</u>	<u>609.247, subd. 3</u>
	Financial Exploitation of a Vulnerable Adult (Over \$35,000)	609.2335
	Felony Driving While Impaired 1st Degree	169A.24
	<u>Labor Trafficking (Extended Period of Time)</u>	<u>609.282, subd. 1a(2)</u>
	Wildfire Arson (Damage over Five Dwellings, Burns 500 Acres or More, or Crops in Excess of \$100,000)	609.5641 subd. 1a(b)
6	Aggravated Robbery 2nd Degree	609.245, subd. 2
	Assault 2nd Degree	609.222
	Burglary 1st Degree (Occupied Dwelling)	609.582, subd. 1(a)
	<u>Carjacking 3rd Degree</u>	<u>609.247, subd. 4</u>
	<u>Catalytic Converter Crime (Over 70 Converters)</u>	<u>325E.21, subd. 6(b)(5)</u>
	Certain Persons Not to Have Firearms or Ammunition	624.713, subd. 2(b); 609.165, subd. 1b
	Discharge of Firearm at Occupied Transit Vehicle/Facility	609.855, subd. 5
	Explosive Device or Incendiary Device	609.668, subd. 6
	Fleeing Peace Officer (Great Bodily Harm)	609.487, subd. 4(b)
	Kidnapping (Safe Release/No Great Bodily Harm)	609.25, subd. 2(1)
	<u>Labor Trafficking</u>	<u>609.282, subd. 2</u>
	Medical Assistance Fraud (Over \$35,000)	609.466
	Offering Counterfeit Currency (Over \$35,000)	609.632, subd. 3 with subd. 4(b)(1)

<b>Severity Level</b>	<b>Offense Title</b>	<b>Statute Number</b>
	Price Fixing/Collusive Bidding	325D.53, subd. 1(2)(a)
	Theft Over \$35,000	609.52, subd. 2(a)(3), (4), (15), (16), & (19) with 609.52, subd. 3(1)
5	Arson 2nd Degree	609.562
	Burglary 2nd Degree	609.582, subd. 2(a)(1) & (2), 2(b)
	Check Forgery (Over \$35,000)	609.631, subd. 4(1)
	Child Neglect/Endangerment	609.378
	Criminal Vehicular Operation (Great Bodily Harm)	609.2113, subd. 1
	Criminal Vehicular Operation (Injury to an Unborn Child)	609.2114, subd. 2
	Deprivation of Vulnerable Adult (Substantial Bodily Harm)	609.233, subd. 3(2)
	Emergency Telephone Calls and Communications (Blocks, Interferes, Prevents Using Multiple Communication Devices or Electronic Means)	609.78, subd. 2b(2)
	Engage or Hire a Minor to Engage in Prostitution	609.324, subd. 1(b)
	Financial Exploitation of a Vulnerable Adult (Over \$5,000)	609.2335
	Financial Transaction Card Fraud (Over \$35,000)	609.821, subd. 3(a)(1)(i)
	Harassment (3rd or Subsequent Violations)	609.749, subd. 4(b)
	Interference with Emergency Communications	609.776
	Manslaughter 2nd Degree – Hunting Accident	609.205(2), (3), & (4)
	Manslaughter of an Unborn Child 2nd Degree	609.2665(2), (3), & (4)
	Negligent Discharge of Explosive	299F.83
	Perjury	609.48, subd. 4(1)
	Possession or Use (Unauthorized) of Explosives	299F.79; 299F.80, subd. 1; 299F.82, subd. 1
	Price Fixing/Collusive Bidding	325D.53, subd. 1(1), and subd. 1(2)(b) & (c)
	Simple Robbery	609.24

<b>Severity Level</b>	<b>Offense Title</b>	<b>Statute Number</b>
	Stalking	609.749, subd. 5
	Tampering with Witness in the First Degree	609.498, subd. 1a
	Wildfire Arson (Demonstrable Bodily Harm)	609.5641 subd. 1a(d)
4	Adulteration	609.687, subd. 3(2)
	Assault of an Unborn Child 2nd Degree	609.2671
	Assault 3rd Degree	609.223, subd. 1,2, & 3
	Assault 5th Degree (3rd or Subsequent Violation)	609.224, subd. 4
	Bribery	609.42; 90.41; 609.86
	Bribery, Advancing Money, and Treating	211B.13
	Bring Contraband into State Prison	243.55
	Bring Dangerous Weapon into County Jail	641.165, subd. 2(b)
	Burglary 2nd Degree (Pharmacy/Tool)	609.582, subd. 2(a)(3) & (4)
	Burglary 3rd Degree ( <del>Non-Residential</del> Nonresidential)	609.582, subd. 3(a)
	Criminal Abuse of Vulnerable Adult (Substantial Bodily Harm)	609.2325, subd. 3(3)
	Dangerous Weapons on School Property	609.66, 1d(a)
	Domestic Assault	609.2242, subd. 4
	Domestic Assault by Strangulation	609.2247
	Emergency Telephone Calls and Communications (3rd or Subsequent, Making Calls When No Emergency Exists)	609.78, subd. 2b(1)
	False Imprisonment (Substantial Bodily Harm)	609.255, subd. 3(c)
	Financial Exploitation of a Vulnerable Adult (\$5,000 or Less)	609.2335
	Fleeing a Peace Officer (Substantial Bodily Harm)	609.487, subd. 4(c)
	Harassment (Aggravated Violations)	609.749, subd. 3(a),(b)
	Harassment (2nd Violation)	609.749, subd. 4(a)
	Injury of an Unborn Child in Commission of Crime	609.268, subd. 2
	Interference with a Dead Body or Scene of Death	609.502 subd. 1(1)

<b>Severity Level</b>	<b>Offense Title</b>	<b>Statute Number</b>
	Malicious Punishment of Child (2nd or Subsequent Violation)	609.377, subd. 3
	Malicious Punishment of Child (Bodily Harm)	609.377, subd. 4
	Malicious Punishment of Child (Substantial Bodily Harm)	609.377, subd. 5
	Negligent Fires (Great Bodily Harm)	609.576, subd. 1(1)
	<u>Organized Retail Theft (Over \$5,000)</u>	<u>609.522, subd. 3(1)</u>
	Perjury	609.48, subd. 4(2)
	Precious Metal and Scrap Metal Dealers, Receiving Stolen Goods (2nd or Subsequent Violations)	609.526
	Receiving Stolen Property (Firearm)	609.53
	Security Violations (Over \$2,500)	80A.68; 80B.10, subd. 1; 80C.16, subd. 3(a) & (b)
	Sports Bookmaking	609.76, subd. 2
	Threats of Violence (Terror/Evacuation)	609.713, subd. 1
	Theft From Person	609.52
	Theft of Controlled Substances	609.52, subd. 3(2)
	Theft of Firearm	609.52, subd. 3(1)
	Theft of Incendiary Device	609.52, subd. 3(2)
	Theft of Motor Vehicle	609.52, subd. 2(a)(1)
	Use of Drugs to Injure or Facilitate Crime	609.235
	Violation of a Domestic Abuse No Contact Order	629.75, subd. 2(d)
	Violation of an Order for Protection	518B.01, subd. 14(d)
	Violation of Harassment Restraining Order	609.748, subd. 6(d)
	Weapon in Courthouse or Certain State Buildings	609.66, subd. 1g
3	Arson 3rd Degree	609.563
	Bringing Stolen Goods into State (Over \$5,000)	609.525
	<u>Burglary 3rd Degree (Shoplifting Contrary to Trespass Notice, 2nd or Subsequent)</u>	<u>609.582, subd. 3(b)</u>

<b>Severity Level</b>	<b>Offense Title</b>	<b>Statute Number</b>
	<u>Catalytic Converter Crime (11-70 Converters)</u>	<u>325E.21, subd. 6(b)(4)</u>
	<u>Certain Persons Not to Have Firearms or Ammunition</u>	<u>624.713, subd. 2(a)</u>
	Check Forgery (Over \$2,500)	609.631, subd. 4(2)
	Coercion (Threat Bodily Harm)	609.27, subd. 1(1)
	Coercion (Prop. Value \$2,500 or More)	609.27, subd. 1(2), (3), (4), (5), & (6)
	Computer Damage (Over \$2,500)	609.88
	Computer Theft (Over \$2,500)	609.89
	Criminal Vehicular Operation (Substantial Bodily Harm)	609.2113, subd. 2
	Damage or Theft to Energy Transmission, Telecommunications	609.593
	Damage to Property (Risk Bodily Harm, Public Safety Motor Vehicle)	609.595, subd. 1(1) & (2)
	Damages; Illegal Molestation of Human Remains; Burials; Cemeteries	307.08, subd. 2(a)
	Dangerous Smoking	609.576, subd. 2
	Dangerous Trespass, Railroad Tracks	609.85(1)
	<del>Dangerous Weapons/Certain Persons Not to Have Firearms or Ammunition</del>	<del>609.67, subd. 2; 624.713, subd. 2(a)</del>
	Depriving Another of Custodial or Parental Rights	609.26, subd. 6(a)(2)
	Disarming a Peace Officer	609.504
	Drive-By Shooting (Unoccupied Motor Vehicle or Building)	609.66, subd. 1e(a)(1)
	Embezzlement of Public Funds (Over \$2,500)	609.54
	Engage or Hire a Minor to Engage in Prostitution	609.324, subd. 1(c)
	Escape from Civil Commitment, Sexually Dangerous Persons	609.485, subd. 4(a)(5)
	Escape from Electronic Monitoring	609.485, subd. 4(f)
	Escape from Felony Offense	609.485, subd. 4(a)(1)
	False Imprisonment (Demonstrable Bodily Harm)	609.255 subd. 3(b)

<b>Severity Level</b>	<b>Offense Title</b>	<b>Statute Number</b>
	False Imprisonment (Restraint)	609.255, subd. 2
	False Traffic Signal	609.851, subd. 2
	<u>Fictitious Emergency Call (Substantial Bodily Harm)</u>	<u>609.78, subd. 2a(2)</u>
	Financial Transaction Card Fraud (Over \$2,500)	609.821, subd. 2(1)(2)(5) (6)(7)(8)
	Firearm Suppressor (Public Housing, School, or Park Zone)	609.66, subd. 1a(a)(1)
	Gambling Taxes	297E.13, subd. 1-4
	Hinder Logging (Great Bodily Harm)	609.591, subd. 3(1)
	Identity Theft (4–7 Direct Victims or Loss Over \$2,500)	609.527, subd. 3(4)
	Insurance Tax	297I.90, subd. 1 & 2
	Intentional Release of Harmful Substance	624.732, subd. 2
	Medical Assistance Fraud (Over \$5,000)	609.466
	Motor Vehicle Use Without Consent	609.52, subd. 2(a)(17)
	<u>Nonconsensual Dissemination of a Deep Fake Depicting Intimate Parts or Sexual Acts</u>	<u>617.262, subd. 3(b)</u>
	Nonconsensual Dissemination of Private Sexual Images	617.261, subd. 2(b)
	Obstructing Legal Process, Arrest, Firefighting, or Ambulance Service Personnel Crew	609.50, subd. 2
	Offering Counterfeit Currency (\$5,001–\$35,000)	609.632, subd. 3 with subd. 4(b)(2)
	<u>Organized Retail Theft (\$1,001–\$5,000, or \$501–\$1,000 and Prior Convictions)</u>	<u>609.522, subd. 3(2)</u>
	Patrons of Prostitution (2nd or Subsequent Violation)	609.324, subd. 2(b)
	Possession of Burglary Tools	609.59
	Possession of Code Grabbing Devices	609.586, subd. 2
	Possession of Shoplifting Gear	609.521
	Possession or Sale of Stolen or Counterfeit Check	609.528, subd. 3(4)
	Precious Metal and Scrap Metal Dealers, Receiving Stolen Goods (\$1,000 or More)	609.526, subd. 2(1)

<b>Severity Level</b>	<b>Offense Title</b>	<b>Statute Number</b>
	Receiving Stolen Goods (Over \$5,000)	609.53
	Rustling and Livestock Theft (Over \$2,500)	609.551
	Security Violations (\$2,500 or Less)	80A.68; 80B.10, subd. 1; 80C.16, subd. 3(a) & (b)
	<u>Short-Barreled Shotgun</u>	<u>609.67, subd. 2(b)</u>
	<u>Surreptitious Photography Under or Around Clothing (3rd or Subsequent Violation)</u>	<u>609.746, subd. 1(j)</u>
	Tampering with Fire Alarm System (Results in Bodily Harm)	609.686, subd. 2
	Tax Evasion Laws	289A.63
	Tear Gas & Tear Gas Compounds; Electronic Incapacitation Devices	624.731, subd. 8(a)
	Telecommunications and Information Services; Obtaining Services by Fraud (Over \$2,500)	609.893, subd. 1
	Theft Crimes – Over \$5,000	See section 7: Theft Offense List
	Theft of Controlled Substances	609.52, subd. 3(3)(b)
	Theft of Public Records	609.52
	Theft of Trade Secret	609.52, subd. 2(a)(8)
	Unauthorized Presence at Camp Ripley	609.396, subd. 2
2	Accidents (Death)	169.09, subd. 14(a)(1)
	Aggravated Forgery (Misc. Non-Check)	609.625; 609.635; 609.64
	Bribery of Participant or Official in Contest	609.825, subd. 2
	Bringing Stolen Goods into State (\$1,001-\$5,000)	609.525
	Bringing Stolen Goods into State (\$501-\$1,000, w/Previous Conviction)	609.525
	<u>Catalytic Converter Crime (3–10 Converters)</u>	<u>325E.21, subd. 6(b)(3)</u>
	Cellular Counterfeiting 1st Degree	609.894, subd. 4
	Check Forgery (\$251 - \$2,500)	609.631, subd. 4(3)(a)

<b>Severity Level</b>	<b>Offense Title</b>	<b>Statute Number</b>
	Coercion (Prop. Value \$301 - \$2,500)	609.27, subd. 1(2), (3), (4), (5), & (6)
	Computer Damage (\$2,500 or Less)	609.88
	Computer Theft (\$2,500 or Less)	609.89
	Counterfeited Intellectual Property	609.895, subd. 3(a)
	Damage to Property (Service to Public, Over \$1,000, Over \$500 and Subsequent)	609.595, subd. 1(3), (4) & (5)
	Discharge of Firearm (Intentional)	609.66, subd. 1a(a)(2)
	Discharge of Firearm (Public Housing, School, or Park Zone)	609.66, subd. 1a(a)(2) & (3)
	Dishonored Check (Over \$500)	609.535, subd. 2a(a)(1)
	Duty to Render Aid (Death or Great Bodily Harm)	609.662, subd. 2(b)(1)
	Electronic Use of False Pretense to Obtain Identity	609.527, subd. 5a
	Embezzlement of Public Funds (\$2,500 or Less)	609.54
	Failure to Control a Regulated Animal, Resulting in Great Bodily Harm or Death	346.155, subd. 10(e)
	Financial Transaction Card Fraud (\$2,500 or Less)	609.821, subd. 2(1)(2)(5) (6)(7)(8)
	Firearm Suppressor	609.66, subd. 1a(a)(1)
	Furnishing a Dangerous Weapon	609.66, subd. 1c
	Furnishing Firearm to Minor	609.66, subd. 1b
	Gambling Regulations	349.2127, subd. 1-6; 349.22, subd. 4
	Identity Theft (2-3 Direct Victims or \$501-\$2,500 Loss)	609.527, subd. 3(3)
	Impersonating a Peace Officer	609.4751, subd. 3
	Mail Theft	609.529
	Medical Assistance Fraud (\$5,000 or Less)	609.466
	Negligent Fires (Damage \$2,500 or More)	609.576, subd. 1(3)(iii)
	Offering Counterfeit Currency (\$5,000 or Less)	609.632, subd. 3 with subd. 4(b)(3)

<b>Severity Level</b>	<b>Offense Title</b>	<b>Statute Number</b>
	Possession or Sale of Stolen or Counterfeit Check	609.528, subd. 3(3)
	Precious Metal and Scrap Metal Dealers, Receiving Stolen Goods (Less than \$1,000)	609.526, subd. 2(2)
	Precious Metal Dealers, Regulatory Provisions	325F.743
	Receiving Stolen Goods (\$5,000 or Less)	609.53
	Residential Mortgage Fraud	609.822
	Riot 2nd Degree	609.71, subd. 2
	Rustling and Livestock Theft (\$2,500 or Less)	609.551
	Telecommunications and Information Services; Obtaining Services by Fraud (\$2,500 or Less)	609.893, subd. 1
	Telecommunications and Information Services; Facilitation of Telecommunications Fraud	609.893, subd. 2
	Threats of Violence (Bomb Threat)	609.713, subd. 2
	Theft Crimes – \$5,000 or Less	See section 7: Theft Offense List
	Theft (Looting)	609.52
	Theft (\$1,000 or Less; Risk of Bodily Harm)	609.52, subd. 3a(1)
	Transfer Pistol to Ineligible Person	624.7141, subd. 2
	Transfer Pistol to Minor	624.7132, subd. 15(b)
	Unauthorized Computer Access (Electronic Terminal)	609.891, subd. 2(c)
	Unlawful Possession or Use of Scanning Device or Reencoder	609.527, subd. 5b
	Wildfire Arson	609.5641, subd. 1a(a)
1	Accidents (Great Bodily Harm)	169.09, subd. 14(a)(2)
	Altering Livestock Certificate	35.824
	Assault 4th Degree	609.2231, subd. 1, 2, 3, & 3a
	Assault Weapon in Public if Under 21	624.7181, subd. 2
	Assaulting or Harming a Police Horse	609.597, subd. 3(3)
	Assault 4th Degree Motivated by Bias	609.2231, subd. 4(b)

<b>Severity Level</b>	<b>Offense Title</b>	<b>Statute Number</b>
	Aiding Offender to Avoid Arrest	609.495, subd. 1
	Bullet-Resistant Vest During Commission of Crime	609.486
	Cable Communication Systems Interference	609.80, subd. 2
	Cellular Counterfeiting 2nd Degree	609.894, subd. 3
	Certification for Title on Watercraft	86B.865, subd. 1
	Check Forgery (\$250 or Less)	609.631, subd. 4(3)(b)
	Counterfeited Intellectual Property	609.895, subd. 3(b)
	Crime Committed for Benefit of Gang	609.229, subd. 3(c)
	Criminal Damage to Property Motivated by Bias	609.595, subd. 1a,(a)
	Criminal Use of Real Property (Movie Pirating)	609.896
	Depriving Another of Custodial or Parental Rights	609.26, subd. 6(a)(1)
	Discharge of Firearm (Reckless)	609.66, subd. 1a(a)(3)
	Discharge of Firearm at Unoccupied Transit Vehicle/Facility	609.855, subd. 5
	Duty to Render Aid (Substantial Bodily Harm)	609.662, subd. 2(b)(2)
	Escape from Civil Commitment	609.485, subd. 4(a)(4)
	Escape, Mental Illness	609.485, subd. 4(a)(2)
	Failure to Appear in Court	609.49; 588.20, subd. 1
	False Bill of Lading	228.45, 47, 49, 50, 51
	False Certification by Notary Public	609.65(1)
	False Declaration	256.984
	False Information - Certificate of Title Application	168A.30, subd. 1
	False Statement to Obtain Firearm Transferee Permit	624.7131, subd. 11
	Financial Transaction Card Fraud	609.821, subd. 2(3) & (4)
	Fleeing A Peace Officer	609.487, subd. 3
	Forgery	609.63
	Fraudulent Drivers' Licenses and Identification Cards	609.652

<b>Severity Level</b>	<b>Offense Title</b>	<b>Statute Number</b>
	Fraudulent Instrument or Entry for Procuring a Certificate of Title	508.80
	Fraudulent Statements	609.645
	Insurance Regulations	62A.41
	Interference with Privacy ( <u>2nd or Subsequent Violations &amp; Violation or Minor Victim</u> )	609.746, subd. 1(e)(g)
	Interference with Transit Operator	609.855, subd. 2(c)(1)
	Leaving State to Evade Establishment of Paternity	609.31
	Liquor Taxation (Criminal Penalties)	297G.19, subd. 3, 4(c), 5(c)
	Lottery Fraud	609.651, subd. 1 with subd. 4(a)
	<u>Money Transmitter Regulations</u>	<u>53B.66</u>
	Nonsupport of Spouse or Child	609.375, subd. 2a
	<u>Organized Retail Theft (\$501–\$1,000, or \$500 or Less and Prior Convictions)</u>	<u>609.522, subd. 3(3)</u>
	Pistol Without a Permit (Subsequent Violations)	624.714, subd. 1a
	Prize Notices and Solicitations	325F.755, subd. 7
	Prostitution Crimes (Gross Misdemeanor Level) Committed in School or Park Zones	609.3242, subd. 2(2)
	Remove or Alter Serial Number on Firearm	609.667
	Tampering with a Fire Alarm (Potential for Bodily Harm)	609.686, subd. 2
	Tax on Petroleum and Other Fuels (Willful Evasion)	296A.23, subd. 2
	Threats of Violence (Replica Firearm)	609.713, subd. 3(a)
	Theft from Abandoned or Vacant Building (\$1,000 or Less)	609.52, subd. 3(3)(d)(iii)
	Unlawful Acts Involving Liquor	340A.701
	Voting Violations	Chapter 201, 203B, & 204C

<b>Severity Level</b>	<b>Offense Title</b>	<b>Statute Number</b>
UNRANKED	Abortion	617.20; 617.22; 145.412
	Accomplice After the Fact	609.495, subd. 3
	Adulteration	609.687, subd. 3(3)
	Aiding Suicide	609.215
	Altering Engrossed Bill	3.191
	Animal Fighting	343.31, subd. 1(a)
	Assaulting or Harming a Police Horse	609.597, subd. 3(1) & (2)
	Bigamy	609.355
	Cigarette Tax and Regulation Violations	297F.20
	Collusive Bidding/Price Fixing	325D.53, subds. 1(3), 2 & 3
	Computer Encryption	609.8912
	Concealing Criminal Proceeds; Engaging in Business	609.496; 609.497
	Corporate Political Contribution Violations	211B.15
	Corrupting Legislator	609.425
	Counterfeiting of Currency (Manufacturing or Printing/Mean for False Reproduction)	609.632, subd. 1 & 2 with subd. 4(a)
	Damage to Property of Critical Public Service Facilities, Utilities, and Pipelines	609.594
	Escape with Violence from Gross Misdemeanor or Misdemeanor Offense	609.485, subd. 4(a)(3)
	Failure to Report Danger to Child's Health (Death)	260E.08(c)
	Falsely Impersonating Another	609.83
	Female Genital Mutilation	609.2245
	Forced Execution of a Declaration	145B.105
	Fraudulent or Improper Financing Statements	609.7475
Gambling Acts (Cheating, Certain Devices Prohibited; Counterfeit Chips; Manufacture, Sale, Modification of Devices; Instruction)	609.76, subd. 3, 4, 5, 6, & 7	
Hazardous Wastes	609.671	

<b>Severity Level</b>	<b>Offense Title</b>	<b>Statute Number</b>
	Horse Racing – Prohibited Act	240.25
	Incest	609.365
	Insurance Fraud – Employment of Runners	609.612
	Interstate Compact Violation	243.161
	Issuing a Receipt for Goods One Does Not Have	227.50
	Issuing a Second Receipt Without “Duplicate” on It	227.52
	Killing or Harming a Public Safety Dog	609.596, subd. 1
	Labor Trafficking	609.282
	Lawful Gambling Fraud	609.763
	Metal Penetrating Bullets	624.7191
	Midwest Interstate Low-Level Radioactive Waste Compact; Enforcement of Compact and Laws	116C.835
	Misprision of Treason	609.39
	Motor Vehicle Excise Tax	297B.10
	Obscene Materials; Distribution	617.241, subd. 4
	Obstructing Military Forces	609.395
	Pipeline Safety	299J
	Police Radios During Commission of Crime	609.856
	Racketeering, Criminal Penalties (RICO)	609.904
	Real and Simulated Weapons of Mass Destruction	609.712
	Refusal to Assist	6.53
	Sale of Membership Camping Contracts	82A.13; 82A.25
	Service Animal Providing Service	343.21, subd. 9(f)(h)
	State Lottery Fraud	609.651, subd. 1 with 4(b) and subd. 2 & 3
	Subdivided Land Fraud	83.43
	Torture or Cruelty to Pet or Companion Animal	343.21, subd. 9(c)(d)(g)(i)
	Treason	609.385

<b>Severity Level</b>	<b>Offense Title</b>	<b>Statute Number</b>
	Unauthorized Computer Access (Grave Risk or Subsequent)	609.891, subd. 2(a) & (b)
	Unlawful Conduct with Documents in Furtherance of Labor or Sex Trafficking	609.283
	Unlawful Transfers or Sales of Recordings	325E.201
	<u>Using Deep Fake Technology to Influence an Election (2nd or Subsequent Violation)</u>	<u>609.771, subd. 3(1)</u>
	Warning Subject of Investigation	609.4971
	Warning Subject of Surveillance or Search	609.4975
	Wire Communications Violations	626A.02, subd. 4; 626A.03, subd. 1(b)(ii); 626A.26, subd. 2(1)(ii)
A	<u>Aggravated Sex Trafficking 1st Degree</u>	<u>609.322, subd. 1(a) with ref. to subd. 1(b)</u>
	Criminal Sexual Conduct 1st Degree	609.342
B	<u>Aggravated Sex Trafficking 2nd Degree</u>	<u>609.322, subd. 1a with ref. to subd. 1(b)</u>
	Criminal Sexual Conduct 2nd Degree	609.343, subd. 1(a)(b)(c)(d)(e) & 1a(a)(b)(c)(d)(h)(i)
	<del>Solicits, Promotes, or Receives Profit Derived from Prostitution</del> ; Sex Trafficking 1st Degree	609.322, subd. 1(a)
C	Criminal Sexual Conduct 3rd Degree	609.344, subd. 1(a)(b)(c)(d) & 1a(c)(d)(g)(h)(i)
	Dissemination of Child Pornography (Subsequent, by Predatory Offender, or Child Under 14)	617.247, subd. 3(b)
	Sexual Extortion (Penetration)	609.3458, subd. 1(b)
	<del>Solicits, Promotes, or Receives Profit Derived from Prostitution</del> ; Sex Trafficking 2nd Degree	609.322, subd. 1a
	Use of Minors in Sexual Performance (Subsequent, by Predatory Offender, or Child Under 14)	617.246, subd. 2(b), 3(b), 4(b)
D	Criminal Sexual Conduct 2nd Degree	609.343, subd. 1a(e)(f)(g)

<b>Severity Level</b>	<b>Offense Title</b>	<b>Statute Number</b>
	Criminal Sexual Conduct 3rd Degree	609.344 subd. 1a(a)(e)(f) or subd. 1a(b) with ref. to subd. 2(1)
	Use of Minors in Sexual Performance	617.246, subd. 2(a), 3(a), 4(a)
E	Criminal Sexual Conduct 4th Degree	609.345, subd. 1(a)(b)(c)(d) & 1a(c)(d)(g)(h)(i)
	Dissemination of Child Pornography	617.247, subd. 3(a)
	Sexual Extortion (Contact)	609.3458, subd. 1(a)
	Possession of Child Pornography (Subsequent, by Predatory Offender, or Child Under 14)	617.247, subd. 4(b)
F	Criminal Sexual Conduct 4th Degree	609.345 subd. 1a(a)(b)(e)(f)
	Criminal Sexual Conduct 5th Degree (2nd or Subsequent Violation)	609.3451, subd. 3(b)
G	Criminal Sexual Conduct 3rd Degree (Actor between 24 mos. and 36 mos. older than Complainant)	609.344 subd. 1a(b) with ref. to subd. 2(2)
	Indecent Exposure	617.23 subd. 3
	Possession of Child Pornography	617.247, subd. 4(a)
	Solicitation of Children to Engage in Sexual Conduct	609.352, subd. 2
	Solicitation of Children to Engage in Sexual Conduct (Electronic)	609.352, subd. 2a
	Surreptitious Observation Device (Minor Victim and Sexual Intent)	609.746, subd. 1 <del>(f)</del> (h)
H	Criminal Sexual Conduct 5th Degree (Nonconsensual Penetration)	609.3451, subd. 3(a)
I	Failure to Register as a Predatory Offender	243.166 subd. 5(b)(c)
D9	Aggravated Controlled Substance Crime 1st Degree	152.021, subd. 2b
	Importing Controlled Substances Across State Borders	152.0261
	Manufacture Any Amount of Methamphetamine	152.021, subd. 2a
D8	Controlled Substance Crime 1st Degree	152.021, subd. 1 or 2

<b>Severity Level</b>	<b>Offense Title</b>	<b>Statute Number</b>
D7	Controlled Substance Crime 2nd Degree	152.022
D6	Controlled Substance Crime 3rd Degree	152.023
	Failure to Affix Stamp on Cocaine	297D.09, subd. 1a
	Failure to Affix Stamp on Hallucinogens or PCP	297D.09, subd. 1a
	Failure to Affix Stamp on Heroin	297D.09, subd. 1a
	Failure to Affix Stamp on Remaining Schedule I & II Narcotics	297D.09, subd. 1a
D5	Possession of Substances with Intent to Manufacture Methamphetamine	152.0262
D4	Controlled Substance Crime 4th Degree	152.024
D3	Anhydrous Ammonia (Tamper/Theft/Transport)	152.136
	Methamphetamine Crimes Involving Children and Vulnerable Adults	152.137
D2	<u>Cannabis Cultivation 1st Degree</u>	<u>152.0265, subd. 1</u>
	<u>Cannabis Possession 1st Degree</u>	<u>152.0263, subd. 1</u>
	<u>Cannabis Sale 1st Degree</u>	<u>152.0264, subd. 1</u>
	Controlled Substance Crime 5th Degree	152.025, subd. 4(b)
	Failure to Affix Stamp on Remaining Schedule I, II, & III Non-Narcotics	297D.09, subd. 1a
	Medical Cannabis Violations (Submission of False Records)	152.33, subd. 4
	Sale of Synthetic Cannabinoids	152.027, subd. 6(c)
D1	Failure to Affix Stamp on <u>Illegal Cannabis Marijuana/Hashish/Tetrahydrocannabinols</u>	297D.09, subd. 1a
	Failure to Affix Stamp on Schedule IV Substances	297D.09, subd. 1a
	Medical Cannabis Violations (Intentional Diversion)	152.33, subd. 1
	Medical Cannabis Violations (Diversion by patient, registered Designated Caregiver, or Parent)	152.33, subd. 2
	Sale of Simulated Controlled Substance	152.097

## 5.B. Severity Level by Statutory Citation

Offenses subject to a mandatory life sentence, including first-degree murder and certain sex offenses under Minn. Stat. § 609.3455, subdivision 2, are excluded from the Guidelines by law.

Statute Number	Offense Title	Severity Level
3.191	Altering Engrossed Bill	Unranked
6.53	Refusal to Assist	Unranked
35.824	Altering Livestock Certificate	1
<u>53B.66</u>	<u>Money Transmitter Regulations</u>	<u>1</u>
62A.41	Insurance Regulations	1
80A.68 or 80B.10 subd. 1 or 80C.16 subd. 3(a)(b)	Securities Violation (Over \$2,500)	4
80A.68 or 80B.10 subd. 1 or 80C.16 subd. 3(a)(b)	Securities Violation (\$2,500 or Less)	3
82A.13 or 82A.25	Sale of Membership Camping Contracts	Unranked
83.43	Subdivided Land Fraud	Unranked
86B.865 subd. 1	Certification for Title on Watercraft	1
90.41 subd. 1	Bribery (State Appraiser and Scaler)	4
116C.835	Midwest Interstate Low-Level Radioactive Waste Compact; Enforcement of Compact and Laws	Unranked
145.412	Abortion	Unranked
145B.105	Forced Execution of a Declaration	Unranked
152.021, subd. 1 or 2	Controlled Substance Crime 1st Degree	D8
152.021, subd. 2a	Manufacture Any Amount of Methamphetamine	D9
152.021, subd. 2b	Aggravated Controlled Substance Crime 1st Degree	D9
152.022	Controlled Substance Crime 2nd Degree	D7*
152.023	Controlled Substance Crime 3rd Degree	D6
152.024	Controlled Substance Crime 4th Degree	D4

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\* See section 2.C and Appendix 1 to determine the presumptive disposition.

<b>Statute Number</b>	<b>Offense Title</b>	<b>Severity Level</b>
152.025, subd. 4(b)	Controlled Substance Crime 5th Degree	D2
152.0261	Importing Controlled Substances Across State Borders	D9
152.0262	Possession of Substances with Intent to Manufacture Methamphetamine	D5
<u>152.0263 subd. 1</u>	<u>Cannabis Possession 1st Degree</u>	<u>D2</u>
<u>152.0264 subd. 1</u>	<u>Cannabis Sale 1st Degree</u>	<u>D2</u>
<u>152.0265 subd. 1</u>	<u>Cannabis Cultivation 1st Degree</u>	<u>D2</u>
152.027, subd. 6(c)	Sale of Synthetic Cannabinoids	D2
152.097	Sale of Simulated Controlled Substance	D1
152.136	Anhydrous Ammonia (Tamper/Theft/Transport)	D3
152.137	Methamphetamine Crimes Involving Children and Vulnerable Adults	D3
152.33, subd. 1	Medical Cannabis Violations (Intentional Diversion)	D1
152.33, subd. 2	Medical Cannabis Violations (Diversion by patient, registered Designated Caregiver, or Parent)	D1
152.33, subd. 4	Medical Cannabis Violations (Submission of False Records)	D2
168A.30, subd. 1	False Information - Certificate of Title Application	1
169.09 subd. 14(a)(1)	Accidents (Death)	2
169.09 subd. 14(a)(2)	Accidents (Great Bodily Harm)	1
169A.24	Felony Driving While Impaired 1st Degree	7*
176.178	Workers Compensation Fraud (Over \$5,000)	3
176.178	Workers Compensation Fraud (\$5,000 or Less)	2
201, 203B, 204C (Chapters)	Voting Violations	1
211B.13	Bribery, Advancing Money, and Treating Prohibited	4
211B.15	Corporate Political Contribution Violations	Unranked
227.50	Issuing a Receipt for Goods One Does Not Have	Unranked

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\* See section 2.C and Appendix 1 to determine the presumptive disposition.

<b>Statute Number</b>	<b>Offense Title</b>	<b>Severity Level</b>
227.52	Issuing a 2nd Receipt without "Duplicate" on it	Unranked
228.45, 47, 49, 50, 51	False Bill of Lading	1
240.25	Horse Racing (Prohibited Act)	Unranked
243.161	Interstate Compact Violation	Unranked
243.166 subd. 5(b)	Registration of Predatory Offenders	I
243.166 subd. 5(c)	Registration of Predatory Offenders (2nd or Subsequent Violations)	I
243.55	Bringing Contraband into State Prison	4
256.98	Welfare Fraud (Over \$5,000)	3
256.98	Welfare Fraud (\$5,000 or Less)	2
256.984	False Declaration	1
260E.08(c)	Failure to Report Danger to Child's Health (Death)	Unranked
268.182	Unemployment Benefit Fraud (Over \$5,000)	3
268.182	Unemployment Benefit Fraud (\$5,000 or Less)	2
<u>268B.185 subd. 3(a)</u>	<u>Family and Medical Benefit Fraud (Over \$5,000)</u>	<u>3</u>
<u>268B.185 subd. 3(b)</u>	<u>Family and Medical Benefit Fraud (\$5,000 or Less)</u>	<u>2</u>
289A.63	Tax Evasion Laws	3
296A.23 subd. 2	Tax on Petroleum and Other Fuels (Willful Evasion)	1
297B.10	Motor Vehicle Excise Tax	Unranked
297D.09 subd. 1a	Failure to Affix Stamp on Cocaine	D6
297D.09 subd. 1a	Failure to Affix Stamp on Hallucinogens or PCP (Angel Dust), Incl. LSD	D6
297D.09 subd. 1a	Failure to Affix Stamp on Heroin	D6
297D.09 subd. 1a	Failure to Affix Stamp on Remaining Schedule I and II Narcotics	D6
297D.09 subd. 1a	Failure to Affix Stamp on Remaining Schedule I, II, & III Non-Narcotics	D2
297D.09 subd. 1a	Failure to Affix Stamp on <u>Illegal Cannabis</u> <u>Marijuana/Hashish/Tetrahydrocannabinols</u>	D1
297D.09 subd. 1a	Failure to Affix Stamp on Schedule IV Substance	D1

<b>Statute Number</b>	<b>Offense Title</b>	<b>Severity Level</b>
297E.13 subd. 1-4	Gambling Taxes	3
297F.20	Cigarette Tax and Regulation Violations	Unranked
297G.19 subd. 3, 4(c), 5(c)	Liquor Taxation (Criminal Penalties)	1
297I.90 subd. 1 & 2	Insurance Tax	3
299F.79	Intent to Manufacture Explosives	5
299F.80 subd. 1	Possession of Explosives Without Permit	5
299F.82 subd. 1	Transfer of Explosives	5
299F.83	Negligent Discharge of Explosive	5
299J	Pipeline Safety	Unranked
307.08 subd. 2(a)	Damages; Illegal Molestation of Human Remains; Burials; Cemeteries	3
325D.53 subd. 1(2)(a)	Price Fixing/Collusive Bidding	6
325D.53 subd. 1(1) subd. 1(2)(b)(c)	Price Fixing/Collusive Bidding	5
325D.53 subd. 1(3) subd. 2 & 3	Price Fixing/Collusive Bidding	Unranked
325E.201	Unlawful Transfers or Sales of Recordings	Unranked
<u>325E.21 subd. 6(b)(3)</u>	<u>Catalytic Converter Crime (3–10 Converters)</u>	<u>2</u>
<u>325E.21 subd. 6(b)(4)</u>	<u>Catalytic Converter Crime (11–70 Converters)</u>	<u>3</u>
<u>325E.21 subd. 6(b)(5)</u>	<u>Catalytic Converter Crime (Over 70 Converters)</u>	<u>6</u>
325F.743	Precious Metal Dealers, Regulatory Provisions	2
325F.755 subd. 7	Prize Notices and Solicitations	1
340A.701	Unlawful Acts Involving Liquor	1
343.21, subd. 9(c)(d)(g)(i)	Torture or Cruelty to Pet or Companion Animal	Unranked
343.21, subd. 9(f)(h)	Service Animal Providing Service	Unranked
343.31, subd. 1(a)	Animal Fighting	Unranked
346.155	Failure to Control a Regulated Animal (Great Bodily Harm or Death)	2

<b>Statute Number</b>	<b>Offense Title</b>	<b>Severity Level</b>
349.2127 subd. 1-6; 349.22 subd. 4	Gambling Regulations	2
393.07 subd.10	Federal Food Stamp Program (Over \$5,000)	3
393.07 subd.10	Federal Food Stamp Program (\$5,000 or Less)	2
471.392	False Declaration of Claim (Over \$5,000)	3
471.392	False Declaration of Claim (\$5,000 or Less)	2
508.80	Fraudulent Instrument or Entry for Procuring a Certificate of Title	1
514.02 subd. 1(b)	Non-payment for Improvement (Over \$5,000; Proceeds of Payments; Acts Constituting Theft)	3
514.02 subd. 1(b)	Non-payment for Improvement (\$5,000 or Less Proceeds of Payments; Acts Constituting Theft)	2
518B.01 subd. 14(d)	Violation of an Order for Protection	4
588.20 subd. 1	Failure to Appear in Court	1
609.165 subd. 1b	Certain Persons Not to Have Firearms or Ammunition	6
609.19 subd. 1	Murder 2nd Degree (Intentional Murder; Unintentional Drive-By-Shootings)	11
609.19 subd. 2	Murder 2nd Degree (Unintentional Murder)	10
609.195(a)	Murder 3rd Degree	10
609.195(b)	Murder 3rd Degree	9
609.20(1), (2) & (5)	Manslaughter 1st Degree	9
609.20(3) & (4)	Manslaughter 1st Degree	8
609.205(1) & (5)	Manslaughter 2nd Degree - Culpable Negligence	8
609.205(2), (3) & (4)	Manslaughter 2nd Degree - Hunting Accident	5
609.2112, subd. 1(a)	Criminal Vehicular Homicide (Death)	8
609.2112, subd. 1(b)	Criminal Vehicular Homicide (Death, and Qualified Prior Conviction)	8*
609.2113, subd. 1	Criminal Vehicular Operation (Great Bodily Harm)	5
609.2113, subd. 2	Criminal Vehicular Operation (Substantial Bodily Harm)	3

<b>Statute Number</b>	<b>Offense Title</b>	<b>Severity Level</b>
609.2114, subd. 1(a)	Criminal Vehicular Operation (Death to an Unborn Child)	8
609.2114, subd. 1(b)	Criminal Vehicular Operation (Death to an Unborn Child, and Qualified Prior Conviction)	8*
609.2114, subd. 2	Criminal Vehicular Operation (Injury to an Unborn Child)	5
609.215	Aiding Suicide	Unranked
609.221 subd. 1	Assault 1st Degree (Great Bodily Harm)	9
609.221 subd. 2	Assault 1st Degree (Deadly Force Against Official)	9
609.221 subd. 3	Assault 1st Degree (Great Bodily Harm Upon Official)	10
609.221 subd. 4	Assault 1st Degree (Great Bodily Harm Upon Official by Dangerous Weapon or Deadly Force)	11*
609.222	Assault 2nd Degree (Dangerous Weapon)	6
609.223 subd. 1	Assault 3rd Degree (Substantial Bodily Harm)	4**
609.223 subd. 2	Assault 3rd Degree (Bodily Harm, Pattern of Child Abuse)	4
609.223 subd. 3	Assault 3rd Degree (Bodily Harm, Victim under 4)	4
609.2231 subd. 1	Assault 4th Degree (Peace Officer)	1
609.2231 subd. 2	Assault 4th Degree (Firefighters and Emergency Medical Personnel)	1
609.2231 subd. 3	Assault 4th Degree (Corrections Employee, Prosecutor, Judge, Probation Officer)	1**
609.2231 subd. 3a	Assault 4th Degree (Secure Treatment Facility Personnel)	1**
609.2231 subd. 4 (b)	Assault 4th Degree Motivated by Bias	1*
609.2233	Felony Assault Motivated by Bias	See Note <sup>1</sup>

\* See section ~~2.G.12~~ 2.G.11 to determine the presumptive sentence.

\*\* See section 2.C.2 and Appendix 3 to determine the presumptive duration. Depending on the offender's criminal history score, the presumptive duration may exceed the statutory maximum.

\*\*\* See section 2.C and Appendix 1 to determine the presumptive disposition for assault committed by a State prison inmate or for assault on secure treatment facility personnel by persons committed to the Minnesota Sex Offender Program.

<sup>1-3</sup> See section 2.G to determine the presumptive sentence.

<b>Statute Number</b>	<b>Offense Title</b>	<b>Severity Level</b>
609.224 subd. 4	Assault 5th Degree (3rd or Subsequent Violation)	4
609.2241	Knowing Transfer of Communicable Disease	See Note <sup>2</sup>
609.2242 subd. 4	Domestic Assault	4
609.2245	Female Genital Mutilation	Unranked
609.2247	Domestic Assault by Strangulation	4
609.228	Great Bodily Harm Caused by Distribution of Drugs	8
609.229 subd. 3(a)	Crime Committed for Benefit of Gang	See Note <sup>3</sup>
609.229 subd. 3(c)	Crime Committed for Benefit of Gang	1
609.2325 subd. 3(1)	Criminal Abuse of Vulnerable Adult (Death)	9
609.2325 subd. 3(2)	Criminal Abuse of Vulnerable Adult (Great Bodily Harm)	8
609.2325 subd. 3(3)	Criminal Abuse of Vulnerable Adult (Substantial Bodily Harm)	4
609.233, subd. 3(1)	Deprivation of Vulnerable Adult (Great Bodily Harm)	8
609.233, subd. 3(2)	Deprivation of Vulnerable Adult (Substantial Bodily Harm)	5
609.2335	Financial Exploitation of Vulnerable Adult (Over \$35,000)	7
609.2335	Financial Exploitation of Vulnerable Adult (Over \$5,000)	5
609.2335	Financial Exploitation of Vulnerable Adult (\$5,000 or Less)	4
609.235	Use of Drugs to Injure or Facilitate Crime	4
609.24	Simple Robbery	5
609.245 subd. 1	Aggravated Robbery 1st Degree	8
609.245 subd. 2	Aggravated Robbery 2nd Degree	6
<u>609.247 subd. 2</u>	<u>Carjacking 1st Degree</u>	<u>9</u>
<u>609.247 subd. 3</u>	<u>Carjacking 2nd Degree</u>	<u>7</u>
<u>609.247 subd. 4</u>	<u>Carjacking 3rd Degree</u>	<u>6</u>
609.25 subd. 2(1)	Kidnapping (Safe Release/No Great Bodily Harm)	6

<b>Statute Number</b>	<b>Offense Title</b>	<b>Severity Level</b>
<u>609.25 subd. 2(2)(i)</u>	<u>Kidnapping (Not Released in Safe Place)</u>	<u>8</u>
609.25 subd. 2(2)(ii)	Kidnapping (Great Bodily Harm)	9
<del>609.25 subd. 2(2)</del>	<del>Kidnapping (Unsafe Release)</del>	<del>8</del>
609.25 subd. 2(2)(iii)	Kidnapping (Victim Under 16)	8
609.255 subd. 2	False Imprisonment (Restraint)	3
609.255 subd. 3(b)	False Imprisonment (Demonstrable Bodily Harm)	3
609.255 subd. 3(c)	False Imprisonment (Substantial Bodily Harm)	4
609.26 subd. 6(a)(1)	Depriving Another of Cust. or Parental Rights	1
609.26 subd. 6(a)(2)	Depriving Another of Cust. or Parental Rights	3
609.2662(1)	Murder of an Unborn Child 2nd Degree	11
609.2662(2)	Murder of an Unborn Child 2nd Degree	10
609.2663	Murder of an Unborn Child 3rd Degree	10
609.2664(1) & (2)	Manslaughter of an Unborn Child 1st Degree	9
609.2664(3)	Manslaughter of an Unborn Child 1st Degree	8
609.2665(1)	Manslaughter of an Unborn Child 2nd Degree	8
609.2665(2), (3), & (4)	Manslaughter of an Unborn Child 2nd Degree	5
609.267	Assault of an Unborn Child 1st Degree	9
609.2671	Assault of an Unborn Child 2nd Degree	4
609.268 subd. 1	Death of an Unborn Child in Comm. of Crime	9
609.268 subd. 2	Injury of an Unborn Child in Comm. of Crime	4
609.27 subd. 1(1)	Coercion (Threat Bodily Harm)	3
609.27 subd. 1(2), (3), (4), (5), & (6)	Coercion (Prop. Value \$2,500 or More)	3
609.27 subd. 1(2), (3), (4), (5), & (6)	Coercion (Prop. Value \$301-\$2,500)	2
<del>609.282</del>	<del>Labor Trafficking</del>	<del>Unranked</del>
<u>609.282 subd. 1</u>	<u>Labor Trafficking (Death)</u>	<u>9</u>
<u>609.282 subd. 1a(1)</u>	<u>Labor Trafficking (Minor Victim)</u>	<u>8</u>
<u>609.282 subd. 1a(2)</u>	<u>Labor Trafficking (Extended Period of Time)</u>	<u>7</u>

<b>Statute Number</b>	<b>Offense Title</b>	<b>Severity Level</b>
<u>609.282 subd. 1a(3)</u>	<u>Labor Trafficking (Great Bodily Harm)</u>	<u>8</u>
<u>609.282 subd. 2</u>	<u>Labor Trafficking</u>	<u>6</u>
609.283	Unlawful Conduct with Documents in Furtherance of Labor or Sex Trafficking	Unranked
609.31	Leaving State to Evade Paternity	1
609.322 subd. 1(a)	<del>Solicits, Promotes, or Receives Profit Derived from Prostitution</del> ; Sex Trafficking 1st Degree	B*
<u>609.322 subd. 1(a) with ref. to subd. 1(b)</u>	<u>Aggravated Sex Trafficking 1st Degree</u>	<u>A</u>
<del>609.322 subd. 1(b)</del>	<del>Aggravating Factors for Solicitation or Promotion of Prostitution</del> ; Sex Trafficking	See Note <sup>4 40</sup>
609.322 subd. 1a	<del>Solicits, Promotes, or Receives Profit Derived from Prostitution</del> ; Sex Trafficking 2nd Degree	C
<u>609.322 subd. 1a with ref. to subd. 1(b)</u>	<u>Aggravated Sex Trafficking 2nd Degree</u>	<u>B</u>
609.324 subd. 1(a)	Engage or Hire a Minor to Engage in Prostitution	9
609.324 subd. 1(b)	Engage or Hire a Minor to Engage in Prostitution	5
609.324 subd. 1(c)	Engage or Hire a Minor to Engage in Prostitution	3
609.324 subd. 2(b)	Patrons of Prostitution (2nd or Subsequent Violation)	3
609.3242 subd. 2(2)	Prostitution Crimes (Gross Misd. Level) Committed in School or Park Zones	1
609.342	Criminal Sexual Conduct 1st Degree	A
609.343 subd. 1(a)(b)(c)(d)(e) & 1a(a)(b)(c)(d)(h)(i)	Criminal Sexual Conduct 2nd Degree	B*

<sup>4</sup> See Guidelines section 2.G to determine the presumptive sentence.

<sup>40</sup> Note 4 through Note 9 in Guidelines section 5.B were renumbered after the modifier for Solicitation or Promotion of Prostitution; Sex Trafficking in section 2.G.9 was deleted because Aggravated Sex Trafficking was ranked. Subsequent references were renumbered: Offense Committed for the Benefit of a Gang became section 2.G.9; Felony Assault Motivated by Bias became section 2.G.10; Criminal Vehicular Homicide (Death or Death to an Unborn Child, and Qualified Prior Conviction) became section 2.G.11; and Attempt or Conspiracy to Commit First-Degree Murder became section 2.G.12. The text for these footnotes is not reproduced in this report for simplicity and so as not to confuse the report's footnotes with those in Guidelines section 5.B.

<b>Statute Number</b>	<b>Offense Title</b>	<b>Severity Level</b>
609.343 subd. 1a(e)(f)(g)	Criminal Sexual Conduct 2nd Degree	D
609.344 subd. 1(a)(b)(c)(d) & 1a(c)(d)(g)(h)(i)	Criminal Sexual Conduct 3rd Degree	C*
609.344 subd. 1a(a)	Criminal Sexual Conduct 3rd Degree (By Definition Perpetrator Must be a Juvenile)	D
609.344 subd. 1a(e)(f) or subd. 1a(b) with ref. to subd. 2(1)	Criminal Sexual Conduct 3rd Degree	D
609.344 subd. 1a(b) with ref. to subd. 2(2)	Criminal Sexual Conduct 3rd Degree (Actor between 24 mos. and 36 mos. older than Complainant)	G
609.345 subd. 1(a)(b)(c)(d) & 1a(c)(d)(g)(h)(i)	Criminal Sexual Conduct 4th Degree	E
609.345 subd. 1a(a)	Criminal Sexual Conduct 4th Degree (By Definition Perpetrator Must be a Juvenile)	F
609.345 subd. 1a(b)(e)(f)	Criminal Sexual Conduct 4th Degree	F
609.3451 subd. 3(a)	Criminal Sexual Conduct 5th Degree (Nonconsensual Penetration)	H
609.3451 subd. 3(b)	Criminal Sexual Conduct 5th Degree (2nd or Subsequent Violation)	F
609.3453	Criminal Sexual Predatory Conduct	See Note <sup>4</sup>
609.3458 subd. 1(a)	Sexual Extortion (Contact)	E
609.3458 subd. 1(b)	Sexual Extortion (Penetration)	C
609.352 subd. 2	Solicitation of Children to Engage in Sexual Conduct	G
609.352 subd. 2a	Solicitation of Children to Engage in Sexual Conduct (Electronic)	G
609.355	Bigamy	Unranked
609.365	Incest	Unranked
609.375 subd. 2a	Nonsupport of Spouse or Child	1
609.377 subd. 3	Malicious Punishment of Child (2nd or Subsequent Violation)	4

\* See section 2.C.2 and Appendix 3 to determine the presumptive duration. Depending on the offender's criminal history score, the presumptive duration may exceed the statutory maximum.

<b>Statute Number</b>	<b>Offense Title</b>	<b>Severity Level</b>
609.377 subd. 4	Malicious Punishment of Child (Bodily Harm)	4
609.377 subd. 5	Malicious Punishment of Child (Substantial Bodily Harm)	4
609.377 subd. 6	Malicious Punishment of Child (Great Bodily Harm)	8
609.3775	Child Torture	8
609.378	Child Neglect/Endangerment	5
609.385	Treason	Unranked
609.39	Misprision of Treason	Unranked
609.395	Obstructing Military Forces	Unranked
609.396 subd. 2	Unauthorized Presence at Camp Ripley	3
609.42 subd. 1 all sections	Bribery	4
609.425	Corrupting Legislator	Unranked
609.445	Failure to Pay Over State Funds (Over \$5,000)	3
609.445	Failure to Pay Over State Funds (\$5,000 or Less)	2
609.455	Permitting False Claims against Government (Over \$5,000)	3
609.455	Permitting False Claims against Government (\$5,000 or Less)	2
609.465	Presenting False Claims to Public Officer (Over \$5,000)	3
609.465	Presenting False Claims to Public Officer (\$5,000 or Less)	2
609.466	Medical Assistance Fraud (Over \$35,000)	6
609.466	Medical Assistance Fraud (Over \$5,000)	3
609.466	Medical Assistance Fraud (\$5,000 or Less)	2
609.4751, subd. 3	Impersonating a Peace Officer	2*
609.48 subd. 4(1)	Perjury (Felony Trial)	5
609.48 subd. 4(2)	Perjury (Other Trial)	4

<b>Statute Number</b>	<b>Offense Title</b>	<b>Severity Level</b>
609.485 subd. 4(a)(1)	Escape from Felony Offense	3**
609.485 subd. 4(a)(2)	Escape, Mental Illness	1*
609.485 subd. 4(a)(3)	Escape with Violence from Gross Misdemeanor or Misdemeanor Offense	Unranked
609.485 subd. 4(a)(4)	Escape from Civil Commitment	1*
609.485 subd. 4(a)(5)	Escape from Civil Commitment, Sexually Dangerous Persons	3
609.485 subd. 4(b)	Escape with Violence from Felony Offense	8
609.485 subd. 4(f)	Escape from Electronic Monitoring	3
609.486	Bullet-Resistant Vest During Crime	1
609.487 subd. 3	Fleeing Peace Officer	1
609.487 subd. 4(a)	Fleeing Peace Officer (Death)	10
609.487 subd. 4(b)	Fleeing Peace Officer (Great Bodily Harm)	6
609.487 subd. 4(c)	Fleeing Peace Officer (Substantial Bodily Harm)	4
609.49	Failure to Appear in Court	1
609.493	Solicitation of Mentally Impaired Persons	See Note <sup>5</sup>
609.494 subd. 2(b)	Solicitation of Juveniles	See Note <sup>5</sup>
609.495 subd. 1	Aiding an Offender to Avoid Arrest	1
609.495 subd. 3	Accomplice After the Fact	Unranked
609.495 subd. 4	Taking Responsibility for Criminal Acts	See Note <sup>6</sup>
609.496; 609.497	Concealing Criminal Proceeds; Engaging in Business	Unranked
609.4971	Warning Subject of Investigation	Unranked
609.4975	Warning Subject of Surveillance or Search	Unranked
609.498 subd. 1a	Tampering with a Witness 1st Degree	5
609.498 subd. 1b	Tampering with a Witness Aggravated 1st Degree	9
609.50 subd. 2	Obstructing Legal Process, Arrest, Firefighting, or Ambulance Service Personnel Crew	3
609.502 subd. 1(1)	Interference with a Dead Body or Scene of Death	4

<b>Statute Number</b>	<b>Offense Title</b>	<b>Severity Level</b>
609.504	Disarming a Peace Officer	3
609.52 all sections*	Theft of Public Funds (Over \$5,000)	3
609.52 all sections*	Theft of Public Funds (\$5,000 or Less)	2
609.52 all sections*	Theft from Person	4
609.52 all sections*	Theft of Public Records	3
609.52 all sections*	Theft (Looting)	2
609.52 subd. 2(a)(1)	Theft (Over \$5,000)	3
609.52 subd. 2(a)(1)	Theft (\$5,000 or Less)	2
609.52 subd. 2(a)(1)	Theft of a Motor Vehicle	4**
609.52 subd. 2(a)(2)	Taking Pledged Property (Over \$5,000)	3
609.52 subd. 2(a)(2)	Taking Pledged Property (\$5,000 or Less)	2
609.52 subd. 2(a)(3) with subd. 3(1)	Theft by Check/False Representation (Over \$35,000)	6
609.52 subd. 2(a)(3)(i)	Theft by Check (\$5,001 - \$35,000)	3
609.52 subd. 2(a)(3)(i)	Theft by Check (\$5,000 or Less)	2
609.52 subd. 2(a)(3)(ii-v)	Theft by False Representation (\$5,001-\$35,000)	3
609.52 subd. 2(a)(3)(ii-v)	Theft by False Representation (\$5,000 or Less)	2
609.52 subd. 2(a)(4) with subd. 3(1)	Theft by Trick (Over \$35,000)	6
609.52 subd. 2(a)(4)	Theft by Trick (\$5,001-\$35,000)	3
609.52 subd. 2(a)(4)	Theft by Trick (\$5,000 or Less)	2
609.52 subd. 2(a)(5)	Temporary Theft (Over \$5,000)	3
609.52 subd. 2(a)(5)	Temporary Theft (\$5,000 or Less)	2
609.52 subd. 2(a)(6)	Refusing to Return Lost Property (Over \$5,000)	3
609.52 subd. 2(a)(6)	Refusing to Return Lost Property (\$5,000 or Less)	2
609.52 subd. 2(a)(7)	Theft from Coin Operated Machine (Over \$5,000)	3
609.52 subd. 2(a)(7)	Theft from Coin Operated Machine (\$5,000 or Less)	2

\* Includes offenses sentenced according to Minn. Stat. § 609.52, subd. 3(3)(d).

\*\* See *Comment 2.A.05* for commentary on motor vehicle offense severity levels.

<b>Statute Number</b>	<b>Offense Title</b>	<b>Severity Level</b>
609.52 subd. 2(a)(8)	Theft of Trade Secret	3
609.52 subd. 2(a)(9)	Theft of Leased Property (Over \$5,000)	3
609.52 subd. 2(a)(9)	Theft of Leased Property (\$5,000 or Less)	2
609.52 subd. 2(a)(10) & (11)	Altering Serial Number (Over \$5,000)	3
609.52 subd. 2(a)(10) & (11)	Altering Serial Number (\$5,000 or Less)	2
609.52 subd. 2(a)(12)	Theft of Cable TV Services (Over \$5,000)	3
609.52 subd. 2(a)(12)	Theft of Cable TV Services (\$5,000 or Less)	2
609.52 subd. 2(a)(13)	Theft of Services (Over \$5,000)	3
609.52 subd. 2(a)(13)	Theft of Services (\$5,000 or Less)	2
609.52 subd. 2(a)(14)	Theft of Telecommunication Services (Over \$5,000)	3
609.52 subd. 2(a)(14)	Theft of Telecommunication Services (\$5,000 or Less)	2
609.52 subd. 2(a)(15)(16) with subd. 3(1)	Diversion of Corporate Property (Over \$35,000)	6
609.52 subd. 2(a)(15)(16)	Diversion of Corporate Property (\$5,001 - \$35,000)	3
609.52 subd. 2(a)(15)(16)	Diversion of Corporate Property (\$5,000, or Less)	2
609.52 subd. 2(a)(17)*	Motor Vehicle Use Without Consent	3**
609.52 subd. 2(a)(18)	Theft of Motor Fuel from Retailer (Over \$5,000)	3
609.52 subd. 2(a)(18)	Theft of Motor Fuel from Retailer (\$5,000 or Less)	2
609.52 subd. 2(a)(19) with subd. 3(1)	Wage Theft (Over \$35,000)	6
609.52 subd. 2(a)(19)	Wage Theft (\$5,001–\$35,000)	3
609.52 subd. 2(a)(19)	Wage Theft (\$5,000 or Less)	2
609.52 subd. 3a(1)	Theft (\$1,000, or Less; Risk of Bodily Harm)	2
609.52 subd. 3a(2)	Theft (Over \$1,000; Risk of Bodily Harm)	See Note <sup>7</sup>

\* Includes offenses sentenced according to Minn. Stat. § 609.52, subd. 3(3)(d).

\*\* See *Comment 2.A.05* for commentary on motor vehicle offense severity levels.

<b>Statute Number</b>	<b>Offense Title</b>	<b>Severity Level</b>
609.52 subd. 3a(2)	Theft (\$501-\$1,000, and Prior Conviction; Risk of Bodily Harm)	See Note <sup>7</sup>
609.52 subd. 3(1)	Theft of Firearm	4
609.52 subd. 3(2)	Theft of Incendiary Device	4
609.52 subd. 3(2)	Theft of Controlled Substances	4
609.52 subd. 3(3)(b)	Theft of Controlled Substances	3
609.52 subd. 3(3)(d)(iii)	Theft from an Abandoned or Vacant Building (\$1,000 or Less)	1
609.521	Possession of Shoplifting Gear	3
<u>609.522 subd. 3(1)</u>	<u>Organized Retail Theft (Over \$5,000)</u>	<u>4</u>
<u>609.522 subd. 3(2)</u>	<u>Organized Retail Theft (\$1,001-\$5,000, or \$501-\$1,000 and Prior Convictions)</u>	<u>3</u>
<u>609.522 subd. 3(3)</u>	<u>Organized Retail Theft (\$501-\$1,000, or \$500 or Less and Prior Convictions)</u>	<u>1</u>
609.525 all sections	Bringing Stolen Goods into State (Over \$5,000)	3
609.525 all sections	Bringing Stolen Goods into State (\$1,001-\$5,000)	2
609.525 all sections	Bringing Stolen Goods into State (\$501-\$1,000, w/Previous Conviction)	2
609.526	Precious Metal and Scrap Metal Dealers, Receiving Stolen Goods (2nd or Subsequent Violations)	4
609.526, subd. 2(1)	Precious Metal and Scrap Metal Dealers, Receiving Stolen Goods (\$1,000 or More)	3
609.526, subd. 2(2)	Precious Metal and Scrap Metal Dealers, Receiving Stolen Goods (Less than \$1,000)	2
609.527 subd. 3(3)	Identity Theft (2-3 Direct Victims or \$501-\$2,500 Loss)	2
609.527 subd. 3(4)	Identity Theft (4-7 Direct Victims or Loss Over \$2,500)	3
609.527 subd. 3(5)	Identity Theft (8 or More Direct Victims or Loss Over \$35,000)	8
609.527 subd. 3(6)	Identity Theft (Related to Child Pornography)	8
609.527 subd. 5a	Electronic Use of False Pretense to Obtain Identity	2

<b>Statute Number</b>	<b>Offense Title</b>	<b>Severity Level</b>
609.527 subd. 5b	Unlawful Possession or Use of Scanning Device or Reencoder	2
609.528 subd. 3(3)	Possession or Sale of Stolen or Counterfeit Check	2
609.528 subd. 3(4)	Possession or Sale of Stolen or Counterfeit Check	3
609.529	Mail Theft	2
609.53	Receiving Stolen Goods (Over \$5,000)	3
609.53	Receiving Stolen Goods (\$5,000 or Less)	2
609.53	Receiving Stolen Property (Firearm)	4
609.535 subd. 2a(a)(1)	Dishonored Check (Over \$500)	2
609.54 all sections	Embezzlement of Public Funds (Over \$2,500)	3
609.54 all sections	Embezzlement of Public Funds (\$2,500 or Less)	2
609.551 all sections	Rustling of Livestock (Over \$2,500)	3
609.551 all sections	Rustling of Livestock (\$2,500 or Less)	2
609.561 all sections	Arson 1st Degree	8
609.562	Arson 2nd Degree	5
609.563 all sections	Arson 3rd Degree	3
609.5641 subd. 1a(a)	Wildfire Arson	2
609.5641 subd. 1a(b)	Wildfire Arson (Damage over Five Dwellings, Burns 500 Acres or More, or Crops in Excess of \$100,000)	7
609.5641 subd. 1a(c)	Wildfire Arson (Damage over 100 Dwellings, Burns 1,500 Acres or More, or Crops in Excess of \$250,000)	8
609.5641 subd. 1a(d)	Wildfire Arson (Demonstrable Bodily Harm)	5
609.576 subd. 1(1)	Negligent Fires (Great Bodily Harm)	4
609.576 subd. 1(3)(iii)	Negligent Fires (Damage \$2,500 or More)	2
609.576 subd. 2	Dangerous Smoking	3
609.582 subd. 1(a)	Burglary 1st Degree (Occupied Dwelling)	6*
609.582 subd. 1(b)(c)	Burglary 1st Degree (w/Weapon or Assault)	8

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\* See section 2.C.3.b and Appendix 1 to determine the presumptive disposition.

<b>Statute Number</b>	<b>Offense Title</b>	<b>Severity Level</b>
609.582 subd. 2(a)(1)(2)	Burglary 2nd Degree (Dwelling/Bank)	5
609.582 subd. 2(a)(3)(4)	Burglary 2nd Degree (Pharmacy/Tool)	4
609.582 subd. 2(b)	Burglary 2nd Degree (Government Building, Religious Est., Historic Property, or School Building)	5
609.582 subd. 3(a)	Burglary 3rd Degree ( <del>Non-Residential</del> <u>Nonresidential</u> )	4
609.582 subd. 3(b)	<u>Burglary 3rd Degree (Shoplifting Contrary to Trespass Notice, 2nd or Subsequent)</u>	<u>3</u>
609.586 subd. 2	Possession of Code Grabbing Devices	3
609.59	Possession of Burglary Tools	3
609.591 subd. 3(1)	Hinder Logging (Great Bodily Harm)	3
609.593	Damage or Theft (Energy Transmission or Telecommunications)	3
609.594	Damage to Property (Critical Service Facilities Utilities, and Pipelines)	Unranked
609.595 subd. 1(1) & (2)	Damage to Property (Risk Bodily Harm, Public Safety Motor Vehicle)	3
609.595 subd. 1(3), (4) & (5)	Damage to Property (Service to Public, Over \$1,000, Over \$500 and Subsequent)	2
609.595 subd. 1a(a)	Damage to Property (Motivated by Bias)	1**
609.596 subd. 1	Killing or Harming a Public Safety Dog	Unranked
609.597 subd. 3(3)	Assaulting or Harming a Police Horse	1*
609.597 subd. 3(1) & (2)	Assaulting or Harming a Police Horse	Unranked
609.611 all sections	Defrauding Insurer (Over \$5,000)	3
609.611 all sections	Defrauding Insurer (\$5,000 or Less)	2
609.612	Insurance Fraud (Employment of Runners)	Unranked
609.615 all sections	Defeating Security on Realty (Over \$5,000)	3
609.615 all sections	Defeating Security on Realty (\$5,000 or Less)	2

\*\* See section 2.C.2 and Appendix 3 to determine the presumptive duration. Depending on the offender's criminal history score, the presumptive duration may exceed the statutory maximum.

\* See section 2.C.2 and Appendix 3 to determine the presumptive duration. Depending on the offender's criminal history score, the presumptive duration may exceed the statutory maximum.

<b>Statute Number</b>	<b>Offense Title</b>	<b>Severity Level</b>
609.62 all sections	Defeating Security on Personalty (Over \$5,000)	3
609.62 all sections	Defeating Security on Personalty (\$5,000 or Less)	2
609.625 all sections	Aggravated Forgery (Non-Check)	2
609.63 all sections	Forgery	1
609.631 subd. 4(1)	Check Forgery (Over \$35,000)	5
609.631 subd. 4(2)	Check Forgery (Over \$2,500)	3
609.631 subd. 4(3)(a)	Check Forgery (\$251-\$2,500)	2
609.631 subd. 4(3)(b)	Check Forgery (\$250 or Less)	1
609.632 subd. 3 with subd. 4(b)(1)	Offering Counterfeit Currency (Over \$35,000)	6
609.632 subd. 3 with subd. 4(b)(2)	Offering Counterfeit Currency (\$5,001-\$35,000)	3
609.632 subd. 3 with subd. 4(b)(3)	Offering Counterfeit Currency (\$5,000 or Less)	2
609.632 subd. 1 & 2 with subd. 4(a)	Counterfeiting of Currency (Manufacturing or Printing/Mean for False Reproduction)	Unranked
609.635	Obtaining Signature by False Pretense	2
609.64	Recording, Filing of Forged Instrument	2
609.645	Fraudulent Statements	1
609.65 (1)	False Certification by Notary Public	1
609.651 subd. 1 with 4(a)	State Lottery Fraud	1
609.651 subd. 1 with 4(b) and subd. 2 & 3	State Lottery Fraud	Unranked
609.652	Fraudulent Drivers' Licenses and Identification Cards	1
609.66 subd. 1a(a)(1)	Firearm Suppressor	2
609.66 subd. 1a(a)(1)	Firearm Suppressor (Public Housing, School or Park Zone)	3
609.66 subd. 1a(a)(2) & (3)	Discharge of Firearm (Public Housing, School or Park Zone)	2
609.66 subd. 1a(a)(2)	Discharge of Firearm (Intentional)	2

<b>Statute Number</b>	<b>Offense Title</b>	<b>Severity Level</b>
609.66 subd. 1a(a)(3)	Discharge of Firearm (Reckless)	1
609.66 subd. 1b	Furnishing Firearm to a Minor	2
609.66 subd. 1c	Furnishing a Dangerous Weapon	2
609.66 subd. 1d(a)	Dangerous Weapons on School Property	4
609.66 subd. 1e(a)(1)	Drive-By Shooting (Unoccupied Motor Vehicle or Building)	3
609.66 subd. 1e(a)(2) & (3)	Drive-By Shooting (Toward a Person or Occupied Motor Vehicle or Building)	8
609.66 subd. 1g	Weapon in Courthouse/Certain State Buildings	4
609.662 subd. 2(b)(1)	Duty to Render Aid (Death or Great Bodily Harm)	2
609.662 subd. 2(b)(2)	Duty to Render Aid (Substantial Bodily Harm)	1*
609.667	Remove or Alter Serial Number on Firearm	1
609.668 subd. 6	Explosive Devices/Incendiary Devices	6
<del>609.67 subd. 2</del>	<del>Possession/Ownership of Machine and Shortbarreled Shotguns</del>	<del>3</del>
<u>609.67 subd. 2(a)</u>	<u>Machine Gun, Trigger Activator, or Conversion Kit</u>	<u>8</u>
<u>609.67 subd. 2(b)</u>	<u>Short-Barreled Shotgun</u>	<u>3</u>
609.671	Hazardous Wastes	Unranked
609.686 subd. 2	Tampering w/ Fire Alarm System (Results in Bodily Harm)	3
609.686 subd. 2	Tampering w/ Fire Alarm System (Potential for Bodily Harm)	1
609.687 subd. 3(1)	Adulteration Resulting in Death	11
609.687 subd. 3(2)	Adulteration Resulting in Bodily Harm	4
609.687 subd. 3(3)	Adulteration	Unranked
609.71 subd. 1	Riot 1st Degree	8
609.71 subd. 2	Riot 2nd Degree	2
609.712	Real/Simulated Weapons of Mass Destruction	Unranked

\* See section 2.C.2 and Appendix 3 to determine the presumptive duration. Depending on the offender's criminal history score, the presumptive duration may exceed the statutory maximum.

<b>Statute Number</b>	<b>Offense Title</b>	<b>Severity Level</b>
609.713 subd. 1	Threats of Violence (Terror/Evacuation)	4
609.713 subd. 2	Threats of Violence (Bomb Threat)	2
609.713 subd. 3(a)	Threats of Violence (Replica Firearm)	1*
609.714	Offense in Furtherance of Terrorism	See Note <sup>8</sup>
609.746 subd. 1(e)(g)	Interference with Privacy ( <del>2nd or</del> Subsequent <del>Violation</del> Violations or Minor Victim)	1
609.746 subd. 1(f)(h)	Surreptitious Observation Device (Minor Victim and Sexual Intent)	G*
<u>609.746 subd. 1(j)</u>	<u>Surreptitious Photography Under or Around Clothing (3rd or Subsequent Violation)</u>	<u>3</u>
609.7475	Fraudulent or Improper Financing Statements	Unranked
609.748 subd. 6(d)	Violation of Harassment Restraining Order	4
609.749 subd. 3(a)(b)	Harassment (Aggravated Violations)	4
609.749 subd. 4(a)	Harassment (2nd Violation)	4
609.749 subd. 4(b)	Harassment (3rd or Subsequent Violations)	5
609.749 subd. 5	Stalking	5
609.76 subd. 2	Sports Bookmaking	4
609.76 subd. 3, 4, 5, 6 & 7	Gambling Acts (Cheating, Certain Devices Prohibited; Counterfeit Chips; Manufacture, Sale, Modification of Devices; Instruction)	Unranked
609.763	Lawful Gambling Fraud	Unranked
<u>609.771 subd. 3(1)</u>	<u>Using Deep Fake Technology to Influence an Election (2nd or Subsequent Violation)</u>	<u>Unranked</u>
609.776	Interference with Emergency Communications	5*
609.78 subd. 2a(1)	<del>Fictitious Emergency Call Telephone Calls and Communications (Reporting Fictitious Emergency Resulting in Serious Injury (Great Bodily Harm or Death)</del>	8

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\* See section 2.C.2 and Appendix 3 to determine the presumptive duration. Depending on the offender's criminal history score, the presumptive duration may exceed the statutory maximum.

<b>Statute Number</b>	<b>Offense Title</b>	<b>Severity Level</b>
609.78 subd. 2a(2)	Fictitious Emergency Call (Substantial Bodily Harm)	3
609.78, subd. 2b(1)	Emergency Telephone Calls and Communications (3rd or Subsequent, Making Calls When No Emergency Exists)	4
609.78, subd. 2b(2)	Emergency Telephone Calls and Communications (Blocks, Interferes, Prevents Using Multiple Communication Devices or Electronic Means)	5
609.80 subd. 2	Cable Communication Systems Interference	1
609.816	Wrongful Employment at a Child Care Center (Over \$5,000)	3
609.816	Wrongful Employment at a Child Care Center (\$5,000 or Less)	2
609.82 all sections	Fraud in Obtaining Credit (Over \$5,000)	3
609.82 all sections	Fraud in Obtaining Credit (\$5,000 or Less)	2
609.821 subd. 2(1)(2)(5)(6)(7)(8)	Financial Transaction Card Fraud (Over \$2,500)	3
609.821 subd. 2(1)(2)(5)(6)(7)(8)	Financial Transaction Card Fraud (\$2,500 or Less)	2
609.821 subd. 2(3)(4)	Financial Transaction Card Fraud	1
609.821 subd. 3(a)(1)(i)	Financial Transaction Card Fraud (Over \$35,000)	5
609.822	Residential Mortgage Fraud	2
609.825 subd. 2	Bribery of Participant or Official in Contest	2
609.83	Falsely Impersonating Another	Unranked
609.85 (1)	Dangerous Trespass, Railroad Tracks	3
609.851 subd. 2	False Traffic Signal	3
609.855 subd. 2(c)(1)	Interference with Transit Operator	1
609.855 subd. 5	Discharge Firearm at Occupied Transit Vehicle/Facility	6
609.855 subd. 5	Discharge Firearm at Unoccupied Transit Vehicle/Facility	1
609.856	Police Radios During Commission of Crime	Unranked
609.86	Commercial Bribery	4

<b>Statute Number</b>	<b>Offense Title</b>	<b>Severity Level</b>
609.88	Computer Damage (Over \$2,500)	3
609.88	Computer Damage (\$2,500 or Less)	2
609.89	Computer Theft (Over \$2,500)	3
609.89	Computer Theft (\$2,500 or Less)	2
609.891 subd. 2(a) & (b)	Unauthorized Computer Access (Grave Risk or Subsequent)	Unranked
609.891 subd. 2(c)	Unauthorized Computer Access (Electronic Terminal)	2
609.8912	Computer Encryption	Unranked
609.893 subd. 1	Telecommunications and Information Services; Obtaining Services by Fraud (Over \$2,500)	3
609.893 subd. 1	Telecommunications and Information Services; Obtaining Services by Fraud (\$2,500 or Less)	2
609.893 subd. 2	Telecommunications and Information Services; Facilitation of Telecommunications Fraud	2
609.894 subd. 3	Cellular Counterfeiting 2nd Degree	1
609.894 subd. 4	Cellular Counterfeiting 1st Degree	2
609.895 subd. 3(a)	Counterfeited Intellectual Property	2
609.895 subd. 3(b)	Counterfeited Intellectual Property	1
609.896	Criminal Use of Real Property (Movie Pirating)	1
609.904	Racketeering (RICO)	Unranked
617.20	Abortion	Unranked
617.22	Abortion	Unranked
617.23 subd. 3	Indecent Exposure	G
617.241 subd. 4	Obscene Materials-Distribution	Unranked
617.246 subd. 2(a) 3(a) 4(a)	Use of Minors in Sexual Performance	D
617.246 subd. 2(b) 3(b) 4(b)	Use of Minors in Sexual Performance (Subsequent, by Predatory Offender, or Child Under 14)	C*

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\* See section 2.C.2 and Appendix 3 to determine the presumptive duration. Depending on the offender's criminal history score, the presumptive duration may exceed the statutory maximum.

<b>Statute Number</b>	<b>Offense Title</b>	<b>Severity Level</b>
617.247 subd. 3(a)	Dissemination of Child Pornography	E*
617.247 subd. 3(b)	Dissemination of Child Pornography (Subsequent, by Predatory Offender, or Child Under 14)	C*
617.247 subd. 4(a)	Possession of Child Pornography	G
617.247 subd. 4(b)	Possession of Child Pornography (Subsequent, by Predatory Offender, or Child Under 14)	E
617.261, subd. 2(b)	Nonconsensual Dissemination of Private Sexual Images	3
<u>617.262 subd. 3(b)</u>	<u>Nonconsensual Dissemination of a Deep Fake Depicting Intimate Parts or Sexual Acts</u>	<u>3</u>
624.713 subd. 2(a)	Certain Persons Not to Have Firearms or Ammunition	3
624.713 subd. 2(b)	Certain Persons Not to Have Firearms or Ammunition	6
<u>624.7131 subd. 11</u>	<u>False Statement to Obtain Firearm Transferee Permit</u>	<u>1</u>
624.7132 subd. 15(b)	Transfer Pistol to Minor	2
624.714 subd. 1a	Pistol Without Permit (Subsequent Violations)	1
624.7141 subd. 2	Transfer Pistol to Ineligible Person	2
624.7181 subd. 2	Assault Weapon in Public (Under 21)	1
624.731 subd. 8(a)	Tear Gas and Tear Gas Compounds; Electronic incapacitation devices	3
624.732 subd. 2	Intentional Release of Harmful Substance	3
624.7191	Metal Penetrating Bullets	Unranked
626A.02 subd. 4; 626A.03 subd.1(b)(ii); 626A.26 subd. 2(1)(ii)	Wire Communications Violations	Unranked
629.75 subd. 2(d)	Violation of a Domestic Abuse No Contact Order	4
641.165 subd. 2(b)	Bring Dangerous Weapon into County Jail	4

## 6. Offenses Eligible for Permissive Consecutive Sentences

- A.** Convictions for attempted offenses or conspiracies to commit offenses listed below are eligible for permissive consecutive sentences as well as convictions for completed offenses.
- B.** Under section 2.F.2.a(1)(i), it is permissive for a current felony conviction to run consecutively to a prior felony sentence from a jurisdiction other than Minnesota if the non-Minnesota conviction is for a crime that is equivalent to a crime listed below.

<b>Statute Number</b>	<b>Offense Title</b>
152.021, subd. 2a	Manufacture any Amount of Methamphetamine
152.021, subd. 2b(2) with ref. to 152.01, subd. 24(8)	Aggravated Controlled Substance Crime 1st Degree, Sale to a Minor or Vulnerable Adult
152.022, subd. 1(6)	Sells Cocaine/Narcotic to Minor/Employs Minor
152.023, subd. 1(3)	Sells Sch. I,II,III to Minor (not Narcotic)
152.023, subd. 1(4)	Sells Sch. I,II,III Employs Minor (not Narcotic)
152.024, subd. 1(2)	Schedule IV or V to Minor
152.024, subd. 1(3)	Employs Minor to Sell Schedule IV or V
152.0261, subd. 1a	Employing a Minor to Import Controlled Substances
152.137	Methamphetamine Crimes Involving Children or Vulnerable Adults
169.09, subd. 14(a)(1)	Accidents (Death)
169.09, subd. 14(a)(2)	Accidents (Great Bodily Harm)
169A.24	DWI 1st Degree
243.166, subd. 5(b)	Registration of Predatory Offenders
243.166, subd. 5(c)	Registration of Predatory Offenders (2nd or subsequent)
518B.01, subd. 14(d)	Violation of an Order for Protection
609.185	Murder 1st Degree
609.19	Murder 2nd Degree
609.195	Murder 3rd Degree
609.20	Manslaughter 1st Degree
609.205	Manslaughter 2nd Degree
609.2112, subd. 1	Criminal Vehicular Homicide (Death)

<b>Statute Number</b>	<b>Offense Title</b>
609.2113, subd. 1	Criminal Vehicular Operation (Great Bodily Harm)
609.2113, subd. 2	Criminal Vehicular Operation (Substantial Bodily Harm)
609.2114, subd. 1	Criminal Vehicular Operation (Death to an Unborn Child)
609.2114, subd. 2	Criminal Vehicular Operation (Injury to an Unborn Child)
609.215	Aiding Suicide
609.221	Assault 1st Degree
609.222	Assault 2nd Degree - Dangerous Weapon
609.223	Assault 3rd Degree
609.2231	Assault 4th Degree
609.224, subd. 4	Assault 5th Degree (3rd or Subsequent Violation)
609.2241	Knowing Transfer of Communicable Disease
609.2242, subd. 4	Domestic Assault
609.2245	Female Genital Mutilation
609.2247	Domestic Assault by Strangulation
609.228	Great Bodily Harm Caused by Distribution of Drugs
609.229, subd. 3	Crime Committed for Benefit of Gang
609.2325, subd. 3(1)	Criminal Abuse of Vulnerable Adult (Death)
609.2325, subd. 3(2)	Criminal Abuse of Vulnerable Adult (Great Bodily Harm)
609.2325, subd. 3(3)	Criminal Abuse of Vulnerable Adult (Substantial Bodily Harm)
609.233, subd. 3	Deprivation of Vulnerable Adult
609.235	Use of Drugs to Injure or Facilitate Crime
609.24	Simple Robbery
609.245, subd. 1	Aggravated Robbery 1st Degree
609.245, subd. 2	Aggravated Robbery 2nd Degree
<u>609.247</u>	<u>Carjacking</u>
609.25	Kidnapping
609.255	False Imprisonment
609.2661	Consp./At. Murder of Unborn Child 1st Degree
609.2662	Murder of an Unborn Child 2nd Degree

<b>Statute Number</b>	<b>Offense Title</b>
609.2663	Murder of an Unborn Child 3rd Degree
609.2664	Manslaughter of an Unborn Child 1st Degree
609.2665	Manslaughter of an Unborn Child 2nd Degree
609.267	Assault of an Unborn Child 1st Degree
609.2671	Assault of an Unborn Child 2nd Degree
609.268	Death or Injury of an Unborn Child in Comm. of Crime
609.282	Labor Trafficking
609.322, subd. 1(a)	<del>Solicit, Promote, or Profit from Prostitution;</del> Sex Trafficking in the 1st Degree
<u>609.322, subd. 1(a) with ref. to subd. 1(b)</u>	<u>Aggravated Sex Trafficking 1st Degree</u>
609.322, subd. 1a	<del>Solicit, Promote, or Profit from Prostitution;</del> Sex Trafficking in the 2nd Degree
<u>609.322, subd. 1a with ref. to subd. 1(b)</u>	<u>Aggravated Sex Trafficking 2nd Degree</u>
609.324, subd. 1(a)	Engage or Hire a Minor to Engage in Prostitution
609.324, subd. 1(b)	Engage or Hire a Minor to Engage in Prostitution
609.324, subd. 1(c)	Engage or Hire a Minor to Engage in Prostitution
609.342	Criminal Sexual Conduct 1st Degree
609.343	Criminal Sexual Conduct 2nd Degree
609.344	Criminal Sexual Conduct 3rd Degree
609.345	Criminal Sexual Conduct 4th Degree
609.3451	Criminal Sexual Conduct 5th Degree
609.3453	Criminal Sexual Predatory Conduct
609.3458	Sexual Extortion
609.352, subd. 2	Solicitation of Children to Engage in Sexual Conduct
609.352, subd. 2a	Solicitation of Children to Engage in Sexual Conduct (Internet or Computer)
609.365	Incest
609.377	Malicious Punishment of Child
609.3775	Child Torture

<b>Statute Number</b>	<b>Offense Title</b>
609.378	Child Neglect/Endangerment
609.485, subd. 4(a)(3)	Escape with Violence from GM or Misd. Offense
609.485, subd. 4(b)	Escape with Violence from Felony Offense
609.487, subd. 3	Fleeing Peace Officer
609.487, subd. 4(a)	Fleeing Peace Officer (Resulting in Death)
609.487, subd. 4(b)	Fleeing Peace Officer (Great Bodily Harm)
609.487, subd. 4(c)	Fleeing Peace Officer (Substantial Bodily Harm)
609.498, subd. 1a	Tampering with a Witness in the 1st Degree
609.498, subd. 1b	Tampering with a Witness, Aggravated 1st Degree
609.502, subd. 1(1)	Interference with a Dead Body or Scene of Death
609.527	Identity Theft
609.561	Arson in the 1st Degree
609.5641, subd. 1a(b)	Wildfire Arson (Damage over Five Dwellings, Burns 500 Acres or More, or Crops in Excess of \$100,000)
609.5641, subd. 1a(c)	Wildfire Arson (Damage over 100 Dwellings, Burns 1,500 Acres or More, or Crops in Excess of \$250,000)
609.5641, subd. 1a(d)	Wildfire Arson (Demonstrable Bodily Harm)
609.582, subd. 1(a)	Burglary 1st Degree - of Occupied Dwelling
609.582, subd. 1(b)	Burglary 1st Degree with Dangerous Weapon
609.582, subd. 1(c)	Burglary 1st Degree with Assault
609.582, subd. 2(a)(1)	Burglary 2nd Degree – Dwelling
609.582, subd. 2(a)(2)	Burglary 2nd Degree – Bank
609.591, subd. 3(1)	Hinder Logging (Great Bodily Harm)
609.594, subd. 2	Damage to Property - Critical Public Service Facilities
609.66, subd. 1e	Drive-By Shooting
609.662, subd. 2(b)(1)	Duty to Render Aid (Death or Great Bodily Harm)
609.662, subd. 2(b)(2)	Duty to Render Aid (Substantial Bodily Harm)
609.671	Hazardous Wastes
609.687, subd. 3(1)	Adulteration Resulting in Death
609.687, subd. 3(2)	Adulteration Resulting in Bodily Harm

<b>Statute Number</b>	<b>Offense Title</b>
609.71, subd. 1	Riot 1st Degree
609.712	Real/Simulated Weapons of Mass Destruction
609.713, subd. 1	Threats of Violence (Terror/Evacuation)
609.713, subd. 2	Threats of Violence (Bomb Threat)
609.713, subd. 3(a)	Threats of Violence (Replica Firearm)
609.714, subd. 2	Crimes Committed in Furtherance of Terrorism
609.746, subd. 1( <del>f</del> )(h)	Surreptitious Observation Device (Minor Victim and Sexual Intent)
<u>609.746, subd. 1(j)</u>	<u>Surreptitious Photography Under or Around Clothing (3rd or Subsequent Violation)</u>
609.748, subd. 6(d)	Violation of Harassment Restraining Order
609.749, subd. 3	Harassment (Aggravated Violations)
609.749, subd. 4	Harassment (Subsequent Violations)
609.749, subd. 5	Stalking
609.78, subd. 2a	<del>Fictitious Emergency Call Telephone Calls and Communications (Reporting Fictitious Emergency Resulting in Serious Injury (Substantial Bodily Harm, Great Bodily Harm, or Death))</del>
609.78, subd. 2b(2)	Emergency Telephone Calls and Communications (Blocks, Interferes, Prevents Using Multiple Communication Devices or Electronic Means)
609.855, subd. 2(c)(1)	Interference with Transit Operator
609.855, subd. 5	Discharge Firearm at Occupied Transit Vehicle/Facility
617.23, subd. 3	Indecent Exposure
617.246, subd. 2(a), 3(a), 4(a)	Use of Minors in Sexual Performance
617.246, subd. 2(b), 3(b), 4(b)	Use of Minors in Sexual Performance (Subsequent, by Predatory Offender, or Child Under 14)
617.247, subd. 3(a)	Dissemination of Child Pornography
617.247, subd. 3(b)	Dissemination of Child Pornography (Subsequent, by Predatory Offender, or Child Under 14)
617.247, subd. 4(a)	Possession of Child Pornography
617.247, subd. 4(b)	Possession of Child Pornography (Subsequent, by Predatory Offender, or Child Under 14)

<b>Statute Number</b>	<b>Offense Title</b>
617.261, subd. 2(b)	Nonconsensual Dissemination of Private Sexual Images
<u>617.262, subd. 3(b)</u>	<u>Nonconsensual Dissemination of a Deep Fake Depicting Intimate Parts or Sexual Acts</u>
624.732, subd. 2	Intentional Release of Harmful Substance
624.7191	Metal Penetrating Bullets
629.75, subd. 2(d)	Violation of a Domestic Abuse No Contact Order

## 7. Theft Offense List

It is recommended that the following property crimes be treated similarly. Below is the Theft Offense List cited for the Theft Crimes (\$5,000 or less and over \$5,000) in section 5.A Offense Severity Reference Table. The severity level for these offenses is based on the monetary amount of the conviction offense. The monetary amount is contained in the penalty statute as cited below:

- Severity Level 2. When the monetary value of the Theft Crime is \$5,000 or less, the penalty statute is Minn. Stat. § 609.52, subdivision 3(3)(a).
- Severity Level 3. When the monetary value of the Theft Crime is over \$5,000, the penalty statute is Minn. Stat. § 609.52, subdivision 3(2).

Statute Number	Offense Title
176.178	Workers Compensation Fraud
256.98	Wrongfully Obtaining Assistance
268.182	Unemployment Benefit Fraud
<u>268B.185*</u>	<u>Family and Medical Benefit Fraud</u>
393.07 subd. 10	Federal Food Stamp Program
471.392	False Declaration of Claim
514.02 subd. 1(b)	Non-payment for Improvement (Proceeds of Payments; Acts Constituting Theft)
609.445	Failure to Pay Over State Funds
609.455	Permitting False Claims Against Government
609.465	Presenting False Claims to Public Officer or Body
609.52	Theft of Public Funds
609.52 subd. 2(a)(1)	Theft
609.52 subd. 2(a)(2)	Taking Pledged Property
609.52 subd. 2(a)(3)(i)	Theft By Check
609.52 subd. 2(a)(3)(ii), (iii), (iv), & (v)	Theft By False Representation

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\* Effective January 1, 2026.

<b>Statute Number</b>	<b>Offense Title</b>
609.52 subd. 2(a)(4)	Theft by Trick
609.52 subd. 2(a)(5)	Temporary Theft
609.52 subd. 2(a)(6)	Refusing to Return Lost Property
609.52 subd. 2(a)(7)	Theft from Coin Operated Machines
609.52 subd. 2(a)(9)	Theft of Leased Property
609.52 subd. 2(a)(10) & (11)	Altering Serial Number
609.52 subd. 2(a)(12)	Theft of Cable TV Services
609.52 subd. 2(a)(13)	Theft of Services
609.52 subd. 2(a)(14)	Theft of Telecommunications Services
609.52 subd. 2(a)(15) & (16)	Diversion of Corporate Property
609.52 subd. 2(a)(19)	Wage Theft
609.53	Receiving Stolen Property
609.611	Defrauding Insurer
609.615	Defeating Security on Realty
609.62	Defeating Security on Personalty
609.816	Wrongful Employment at a Child Care Center
609.82	Fraud in Obtaining Credit

\* \* \*

## 8. Severe Violent Offense List

Each of the following is a “severe violent offense” within the meaning of sections 2.B.2.e and ~~2.G.14.~~ 2.G.13. Attempt or conspiracy is included, as is an equivalent felony from a jurisdiction other than Minnesota.

<b>Statute Number</b>	<b>Offense Title</b>
609.185	Murder 1st Degree
609.19	Murder 2nd Degree
609.195(a)	Murder 3rd Degree (Depraved Mind)
609.221	Assault 1st Degree
609.222, subd. 2	Assault 2nd Degree (Dangerous Weapon, Substantial Bodily Harm)
609.245, subd. 1	Aggravated Robbery 1st Degree
<u>609.247, subd. 2</u>	<u>Carjacking 1st Degree</u>
609.25, subd. 2(2)	Kidnapping (Great Bodily Harm/ <del>Unsafe Release</del> <u>Not Released in Safe Place/Victim Under 16</u> )
609.2661	Murder of an Unborn Child 1st Degree
609.2662	Murder of an Unborn Child 2nd Degree
609.2663	Murder of an Unborn Child 3rd Degree
<del>609.282</del>	<del>Labor Trafficking</del>
<u>609.282 subd. 1</u>	<u>Labor Trafficking (Death)</u>
<u>609.282 subd. 1a(1)</u>	<u>Labor Trafficking (Minor Victim)</u>
<u>609.282 subd. 1a(3)</u>	<u>Labor Trafficking (Great Bodily Harm)</u>
<u>609.322, subd. 1(a)</u>	<u>Sex Trafficking 1st Degree</u>
<u>609.322, subd. 1(a) with ref. to subd. 1(b)</u>	<u>Aggravated Sex Trafficking 1st Degree</u>
<u>609.322, subd. 1a with ref. to subd. 1(b)(2) or (3)</u>	<u>Aggravated Sex Trafficking 2nd Degree (Bodily Harm/Debt Bondage/Forced Services)</u>
609.342, subd. 1(a)(b)(c)(d)(e) & 1a(a)(b)(c)(d)(i)	Criminal Sexual Conduct 1st Degree
609.343, subd. 1(a)(b)(c)(d)(e) & 1a(a)(b)(c)(d)(i)	Criminal Sexual Conduct 2nd Degree

<b>Statute Number</b>	<b>Offense Title</b>
609.498, subd. 1b	Tampering with Witness, Aggravated 1st Degree
609.561, subd. 1 or 2	Arson 1st Degree
609.66, subd. 1e(a)(2) & (3)	Drive-By Shooting (Toward a Person or Occupied Motor Vehicle or Building)

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**Appendix 3. Presumptive Sentence Durations that Exceed the Statutory Maximum Sentence Reference Table**

This table is for convenience when determining if a presumptive duration exceeds the statutory maximum sentence as described in section 2.C.2. Offenses identified in the table below have presumptive durations that exceed the statutory maximums at the Criminal History Score (CHS) indicated on the table. These are offenses for which the applicable grid does not adjust the duration or range to be at or below the statutory maximum. The table may not be exhaustive.

<b>Statute</b>	<b>Offense</b>	<b>Severity Level</b>	<b>Statutory Maximum (Months)</b>	<b>Exceeds Statutory Maximum At:</b>
609.221, subd. 4	Assault 1st Degree (Great Bodily Harm Upon Official by Dangerous Weapon or Deadly Force)	11	360	CHS 0 (upper-range)
609.2231, subd. 4(b)	Assault 4th Degree Motivated by Bias	1	12, and 1 Day	CHS 3
<u>609.322 subd. 1(a)</u>	<u>Sex Trafficking 1st Degree</u>	<u>B</u>	<u>300</u>	<u>CHS 5 (upper-range)</u>
<u>609.343 subd. 1(a)(b)(c)(d)(e) &amp; 1a(a)(b)(c)(d)(h)(i)</u>	<u>Criminal Sexual Conduct 2nd Degree</u>	<u>B</u>	<u>300</u>	<u>CHS 5 (upper-range)</u>
609.344, subd. 1(a)(b)(c)(d) & 1a(c)(d)(g)(h)(i)	Criminal Sexual Conduct 3rd Degree	C	180	CHS 5 (upper-range)
609.4751, subd. 3	Impersonating a Peace Officer	2	24	CHS 6 (upper-range)
609.485, subd. 4(a)(2)	Escape, Mental Illness	1	12, and 1 Day	CHS 3
609.485, subd. 4(a)(4)	Escape from Civil Commitment	1	12, and 1 Day	CHS 3
609.595, subd. 1a(a)	Damage to Prop Motivated by Bias	1	12, and 1 Day	CHS 3
609.597, subd. 3(3)	Assaulting or Harming Police Horse	1	12, and 1 Day	CHS 3
609.662, subd. 2(b)(2)	Duty to Render Aid (Substantial Bodily Harm)	1	12, and 1 Day	CHS 3
609.713, subd. 3(a)	Threats of Violence (Replica Firearm)	1	12, and 1 Day	CHS 3

<b>Statute</b>	<b>Offense</b>	<b>Severity Level</b>	<b>Statutory Maximum (Months)</b>	<b>Exceeds Statutory Maximum At:</b>
609.746, subd. 1 <del>(f)</del> (h)	Surreptitious Observation Device (Minor Victim and Sexual Intent)	G	48	CHS 5
609.776	Interference with Emergency Comm.	5	36	CHS 4
617.246, subd. 2(b) 3(b) 4(b)	Use of Minors in Sexual Performance (Subsequent, by Predatory Offender, or Child Under 14)	C	180	CHS 5 (upper-range)
617.247, subd. 3(a)	Dissemination of Child Pornography	E	84	CHS 5
617.247, subd. 3(b)	Dissemination of Child Pornography (Subsequent, by Predatory Offender, or Child Under 14)	C	180	CHS 5 (upper-range)

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**Appendix 5. Cannabis Threshold Tables**

The tables in this appendix summarize Minnesota Statutes chapter 152’s quantity thresholds for cannabis-related possession, cultivation, and sale offenses. Refer to chapter 152 for authoritative offense descriptions, and to chapter 342 for circumstances under which cannabis-related acts may be licensed or subject to administrative fines.

**A. Cannabis Possession and Cultivation**

The following table summarizes cannabis thresholds for chapter 152’s unlawful possession and cultivation offenses. Offenses in other chapters, such as Minn. Stat. § 169A.36 (Open Package Law), are outside the scope of this table.

“THC” refers to tetrahydrocannabinol. Other terms are statutorily defined.

<b><u>Offense (Severity Level)</u></b>	<b><u>Cannabis Flower Possessed in Residence</u></b>	<b><u>Cannabis Flower Possessed Elsewhere</u></b>	<b><u>Cannabis Concentrate Possessed</u></b>	<b><u>THC Infused in Edible Cannabis Products, Lower-Potency Hemp Edibles, or Hemp-Derived Consumer Products Possessed</u></b>	<b><u>Unharvested Cannabis Plants Growing</u></b>
<u>Controlled Substance Crime 1st Degree (D8)</u>	≥ 50 kg	≥ 50 kg	≥ 10 kg	> 1 kg	--
<u>Controlled Substance Crime 2nd Degree (D7)</u>	< 50 kg and ≥ 25 kg	< 50 kg and ≥ 25 kg	< 10 kg and ≥ 5 kg	≤ 1 kg and > 500 g	--
<u>Controlled Substance Crime 3rd Degree (D6)</u>	< 25 kg and > 10 kg	< 25 kg and > 10 kg	< 5 kg and > 2 kg	≤ 500 g and > 200 g	--
<u>Cannabis Possession or Cultivation 1st Degree (D2)</u>	≤ 10 kg and > 2 lb.	≤ 10 kg and > 2 lb.	≤ 2 kg and > 160 g	≤ 200 g and > 16 g	> 23 plants

<b><u>Offense (Severity Level)</u></b>	<b><u>Cannabis Flower Possessed in Residence</u></b>	<b><u>Cannabis Flower Possessed Elsewhere</u></b>	<b><u>Cannabis Concentrate Possessed</u></b>	<b><u>THC Infused in Edible Cannabis Products, Lower-Potency Hemp Edibles, or Hemp-Derived Consumer Products Possessed</u></b>	<b><u>Unharvested Cannabis Plants Growing</u></b>
<u>Cannabis Possession or Cultivation 2nd Degree (gross misdemeanor)</u>	--	<u>≤ 2 lb. and &gt; 1 lb.</u>	<u>≤ 160 g and &gt; 80 g</u>	<u>≤ 16 g and &gt; 8 g</u>	<u>≤ 23 plants and &gt; 16 plants</u>
<u>Cannabis Possession 3rd Degree (misdemeanor)</u>	--	<u>≤ 1 lb. and &gt; 4 oz.</u>	<u>≤ 80 g and &gt; 16 g</u>	<u>≤ 8 g and &gt; 1.6 g</u>	--
<u>Cannabis Possession 4th Degree (petty misdemeanor)</u>	--	<u>≤ 4 oz. and &gt; 2 oz.</u>	<u>≤ 16 g and &gt; 8 g</u>	<u>≤ 1.6 g and &gt; 0.8 g</u>	--
<u>Not a chapter 152 offense</u>	<u>≤ 2 lb.</u>	<u>≤ 2 oz.</u>	<u>≤ 8 g</u>	<u>≤ 0.8 g</u>	<u>≤ 16 plants</u>

## **B. Cannabis Sale**

The following table summarizes cannabis thresholds for chapter 152's unlawful sale offenses. Cannabis sale offenses have only one quantity threshold, which the following table refers to as the "criminal sale threshold":

- 2 ounces of cannabis flower,
- 8 grams of cannabis concentrate, or
- 0.8 grams (800 mg) of tetrahydrocannabinol infused in edible cannabis products, lower-potency hemp edibles, or hemp-derived consumer products.

The following table applies only to sales by adults. Sales by minors are governed by Sale of Cannabis by a Minor, which has elements and penalties like those of Cannabis Sale 3rd Degree and 4th Degree.

Depending on the cannabis form and amount, the penalty for possession, shown in the preceding table, may be greater than the penalty for sale, shown in the following table, in which case the greater penalty for possession may apply to the sale.

<b>Offense (Severity Level)</b>	<b>Sale of</b>
<u>Cannabis Sale 1st Degree (D2)</u>	<p><u>More than the criminal sale threshold—</u></p> <ul style="list-style-type: none"> <li>• <u>To a minor by an adult more than 36 months older;</u></li> <li>• <u>Within 10 years of two or more convictions for Cannabis Sale 2nd or 3rd Degree; or</u></li> <li>• <u>Within 10 years of a conviction for Cannabis Sale 1st Degree</u></li> </ul>
<u>Cannabis Sale 2nd Degree (gross misdemeanor)</u>	<p><u>More than the criminal sale threshold—</u></p> <ul style="list-style-type: none"> <li>• <u>In a school zone, park zone, or drug treatment facility; or</u></li> <li>• <u>Within 10 years of a conviction for Cannabis Sale 1st, 2nd, or 3rd Degree; or</u></li> </ul> <p><u>Any amount to a minor</u></p>
<u>Cannabis Sale 3rd Degree (misdemeanor)</u>	<u>More than the criminal sale threshold</u>
<u>Cannabis Sale 4th Degree (petty misdemeanor)</u>	<p><u>Not more than the criminal sale threshold—</u></p> <ul style="list-style-type: none"> <li>• <u>For remuneration; or</u></li> <li>• <u>To or by someone under age 21</u></li> </ul>
<u>Not a chapter 152 offense</u>	<u>Not more than criminal sale threshold, for no remuneration, between people age 21 or older</u>

## Appendix 2. Sentencing Guidelines Grids

### Appendix 2.1. Standard Sentencing Guidelines Grid – Effective August 1, 2022

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
<i>Murder, 2nd Degree (Intentional; Drive-By-Shootings)</i>	<b>11</b>	306 <i>261-367</i>	326 <i>278-391</i>	346 <i>295-415</i>	366 <i>312-439</i>	386 <i>329-463</i>	406 <i>346-480<sup>2</sup></i>	426 <i>363-480<sup>2</sup></i>
<i>Murder, 2nd Degree (Unintentional)</i> <i>Murder, 3rd Degree (Depraved Mind)</i>	<b>10</b>	150 <i>128-180</i>	165 <i>141-198</i>	180 <i>153-216</i>	195 <i>166-234</i>	210 <i>179-252</i>	225 <i>192-270</i>	240 <i>204-288</i>
<i>Murder, 3rd Degree (Drugs)</i> <i>Assault, 1st Degree (Great Bodily Harm)</i>	<b>9</b>	86 <i>74-103</i>	98 <i>84-117</i>	110 <i>94-132</i>	122 <i>104-146</i>	134 <i>114-160</i>	146 <i>125-175</i>	158 <i>135-189</i>
<i>Agg. Robbery, 1st Degree</i> <i>Burglary, 1st Degree (w/ Weapon or Assault)</i>	<b>8</b>	48 <i>41-57</i>	58 <i>50-69</i>	68 <i>58-81</i>	78 <i>67-93</i>	88 <i>75-105</i>	98 <i>84-117</i>	108 <i>92-129</i>
<i>Felony DWI</i> <i>Financial Exploitation of a Vulnerable Adult</i>	<b>7</b>	36	42	48	54 <i>46-64</i>	60 <i>51-72</i>	66 <i>57-79</i>	72 <i>62-84<sup>2, 3</sup></i>
<i>Assault, 2nd Degree</i> <i>Burglary, 1st Degree (Occupied Dwelling)</i>	<b>6</b>	21	27	33	39 <i>34-46</i>	45 <i>39-54</i>	51 <i>44-61</i>	57 <i>49-68</i>
<i>Residential Burglary</i> <i>Simple Robbery</i>	<b>5</b>	18	23	28	33 <i>29-39</i>	38 <i>33-45</i>	43 <i>37-51</i>	48 <i>41-57</i>
<i>Nonresidential Burglary</i>	<b>4</b>	12 <sup>1</sup>	15	18	21	24 <i>21-28</i>	27 <i>23-32</i>	30 <i>26-36</i>
<i>Theft Crimes (Over \$5,000)</i>	<b>3</b>	12 <sup>1</sup>	13	15	17	19 <i>17-22</i>	21 <i>18-25</i>	23 <i>20-27</i>
<i>Theft Crimes (\$5,000 or less)</i> <i>Check Forgery (\$251-\$2,500)</i>	<b>2</b>	12 <sup>1</sup>	12 <sup>1</sup>	13	15	17	19	21 <i>18-25</i>
<i>Assault, 4th Degree</i> <i>Fleeing a Peace Officer</i>	<b>1</b>	12 <sup>1</sup>	12 <sup>1</sup>	12 <sup>1</sup>	13	15	17	19 <i>17-22</i>

<sup>1</sup> 12<sup>1</sup>=One year and one day

 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 one year 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.

## Appendix 2.2. Sex Offender Grid Effective August 1, 2022

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
<i>Criminal Sexual Conduct (CSC) 1st Degree</i>	<b>A</b>	144 <i>144-172</i>	156 <i>144-187</i>	168 <i>144-201</i>	180 <i>153-216</i>	234 <i>199-280</i>	306 <i>261-360</i>	360 <i>306-360</i> <sup>2</sup>
<i>CSC 2nd Degree–1(a)(b)(c)(d)(e) 1a(a)(b)(c)(d)(h)(i) (e.g., contact &amp; force with bodily harm)</i>	<b>B</b>	90 <i>90</i> <sup>3</sup> -108	110 <i>94-132</i>	130 <i>111-156</i>	150 <i>128-180</i>	195 <i>166-234</i>	255 <i>217-300</i>	300 <i>255-300</i> <sup>2</sup>
<i>CSC 3rd Degree–1(a)(b)(c)(d) 1a(c)(d)(g)(h)(i) (e.g., penetra- tion &amp; coercion/occupation)</i>	<b>C</b>	48 <i>41-57</i>	62 <i>53-74</i>	76 <i>65-91</i>	90 <i>77-108</i>	117 <i>100-140</i>	153 <i>131-183</i>	180 <i>153-216</i>
<i>CSC 2nd Degree–1a(e)(f)(g) (age) CSC 3rd Degree–1a(a)(e)(f) or 1a(b) with 2(1) (age)</i>	<b>D</b>	36	48	60 <i>51-72</i>	70 <i>60-84</i>	91 <i>78-109</i>	119 <i>102-142</i>	140 <i>119-168</i>
<i>CSC 4th Degree–1(a)(b)(c)(d) 1a(c)(d)(g)(h)(i) (e.g., contact &amp; coercion/occupation)</i>	<b>E</b>	24	36	48	60 <i>51-72</i>	78 <i>67-93</i>	102 <i>87-120</i>	120 <i>102-120</i> <sup>2</sup>
<i>CSC 4th Degree–1a(a)(b)(e)(f) (age) CSC 5th Degree–3(b) (subsequent)</i>	<b>F</b>	18	27	36	45 <i>39-54</i>	59 <i>51-70</i>	77 <i>66-92</i>	84 <i>72-100</i>
<i>CSC 3rd Degree–1a(b) with 2(2) Possession of Child Pornography Solicit Child for Sexual Conduct</i>	<b>G</b>	15	20	25	30	39 <i>34-46</i>	51 <i>44-60</i>	60 <i>51-60</i> <sup>2</sup>
<i>CSC 5th Degree–3(a) (nonconsensual penetration)</i>	<b>H</b>	12 <sup>1</sup>	14	16	18	24	24 <sup>2</sup> <i>24-24</i>	24 <sup>2</sup> <i>24-24</i>
<i>Failure to Register as a Predatory Offender</i>	<b>I</b>	12 <sup>1</sup> <i>12<sup>1</sup>-14</i>	14 <i>12<sup>1</sup>-16</i>	16 <i>14-19</i>	18 <i>16-21</i>	24 <i>21-28</i>	30 <i>26-36</i>	36 <i>31-43</i>

<sup>1</sup> 12<sup>1</sup>=One year and one day

 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 one year 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.

<sup>2</sup> 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 one day 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.

<sup>3</sup> Solicits, Promotes, or Receives Profit Derived from Prostitution; Sex Trafficking 1st Degree is not subject to a 90-month minimum statutory presumptive sentence so the standard range of 15% lower and 20% higher than the fixed duration applies. (The range is 77–108.)

### Appendix 2.3. Drug Offender Grid – Effective August 1, 2022

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
<i>Aggravated Controlled Substance Crime, 1st Degree Manufacture of Any Amt. Meth</i>	<b>D9</b>	86 <i>74*-103</i>	98 <i>84*-117</i>	110 <i>94*-132</i>	122 <i>104*-146</i>	134 <i>114*-160</i>	146 <i>125*-175</i>	158 <i>135*-189</i>
<i>Controlled Substance Crime, 1st Degree</i>	<b>D8</b>	65 <i>56*-78</i>	75 <i>64*-90</i>	85 <i>73*-102</i>	95 <i>81*-114</i>	105 <i>90*-126</i>	115 <i>98*-138</i>	125 <i>107*-150</i>
<i>Controlled Substance Crime, 2nd Degree</i>	<b>D7</b>	48	58	68 <i>58-81</i>	78 <i>67-93</i>	88 <i>75-105</i>	98 <i>84-117</i>	108 <i>92-129</i>
<i>Controlled Substance Crime, 3rd Degree Failure to Affix Stamp</i>	<b>D6</b>	21	27	33	39 <i>34-46</i>	45 <i>39-54</i>	51 <i>44-61</i>	57 <i>49-68</i>
<i>Possess Substances with Intent to Manufacture Meth</i>	<b>D5</b>	18	23	28	33 <i>29-39</i>	38 <i>33-45</i>	43 <i>37-51</i>	48 <i>41-57</i>
<i>Controlled Substance Crime, 4th Degree</i>	<b>D4</b>	12 <sup>1</sup>	15	18	21	24 <i>21-28</i>	27 <i>23-32</i>	30 <i>26-36</i>
<i>Meth Crimes Involving Children and Vulnerable Adults</i>	<b>D3</b>	12 <sup>1</sup>	13	15	17	19 <i>17-22</i>	21 <i>18-25</i>	23 <i>20-27</i>
<i>Controlled Substance Crime, 5th Degree</i>	<b>D2</b>	12 <sup>1</sup>	12 <sup>1</sup>	13	15	17	19	21 <i>18-25</i>
<i>Sale of Simulated Controlled Substance</i>	<b>D1</b>	12 <sup>1</sup>	12 <sup>1</sup>	12 <sup>1</sup>	13	15	17	19 <i>17-22</i>

\* Lower range may not apply. See section 2.C.3.c(1) and Minn. Stat. § 152.021, subdivisions 3(c) & 3(d).

<sup>1</sup> 12<sup>1</sup>=One year and one day

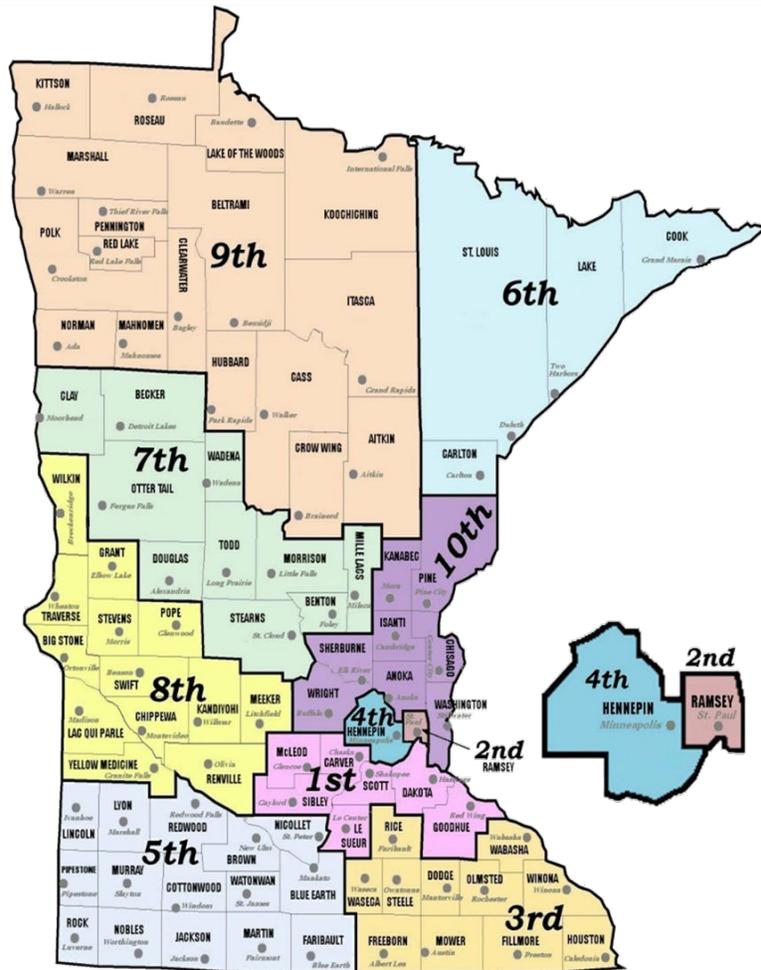


Presumptive commitment to state imprisonment.



Presumptive stayed sentence; at the discretion of the court, up to one year 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.

# Appendix 3. Minnesota Judicial District Map



<u>First</u>	<u>Second</u>	<u>Third</u>	<u>Fourth</u>	<u>Fifth</u>	<u>Sixth</u>	<u>Seventh</u>	<u>Eighth</u>	<u>Ninth</u>	<u>Tenth</u>
Carver	Ramsey	Dodge	Hennepin	Blue Earth	Carlton	Becker	Big Stone	Aitkin	Anoka
Dakota		Fillmore		Brown	Cook	Benton	Chippewa	Beltrami	Chisago
Goodhue		Freeborn		Cottonwood	Lake	Clay	Grant	Cass	Isanti
Le Sueur		Houston		Faribault	St. Louis	Douglas	Kandiyohi	Clearwater	Kanabec
McLeod		Mower		Jackson		Mille Lacs	Lac qui Parle	Crow Wing	Pine
Scott		Olmsted		Lincoln		Morrison	Meeker	Hubbard	Sherburne
Sibley		Rice		Lyon		Otter Tail	Pope	Itasca	Washington
		Steele		Martin		Stearns	Renville	Kittson	Wright
		Wabasha		Murray		Todd	Swift	Koochiching	
		Waseca		Nicollet		Wadena	Traverse	Lake of the Woods	
		Winona		Nobles			Wilkin	Mahnomen	
				Pipestone			Yellow Medicine	Marshall	
				Redwood				Norman	
				Rock				Pennington	
				Watowwan				Polk	
								Red Lake	
								Roseau	

Source: Minn. Judicial Branch.