



mn MINNESOTA
SENTENCING GUIDELINES
COMMISSION

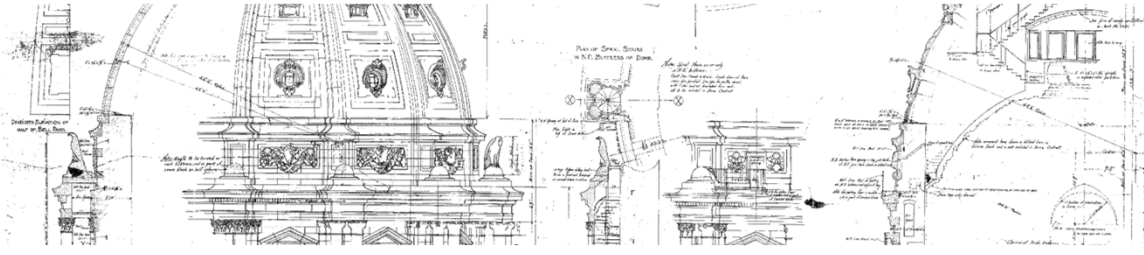
Agency Overview

January 10, 2023
 Nate Reitz | Executive Director
 House Public Safety Finance and Policy Committee
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SENTENCING GUIDELINES
COMMISSION



Structure of the Sentencing Guidelines Commission

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Brief History of the Guidelines

<div style="background-color: #1a3d4d; color: white; text-align: center; padding: 5px; font-weight: bold;">BEFORE 1978</div> <ul style="list-style-type: none"> • No guidelines—each judge had broad discretion to sentence within statutory maximum • Indeterminate sentencing—parole board had broad discretion to grant early release 	<div style="background-color: #1a3d4d; color: white; text-align: center; padding: 5px; font-weight: bold;">AFTER 1978</div> <ul style="list-style-type: none"> • Commission to create advisory Guidelines to district court • Judges directed to provide written reasons for departures • Determinate sentencing—$\frac{1}{3}$ sentence reduction for good behavior
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1978 Legislature’s Directives to the Commission

<div style="background-color: #1a3d4d; color: white; padding: 10px; border-radius: 10px; margin-bottom: 10px;">Establish Sentencing Guidelines for the district court</div> <div style="background-color: #00838f; color: white; padding: 10px; border-radius: 10px; margin-bottom: 10px;">Meet as necessary for the purpose of modifying and improving those Guidelines</div> <div style="background-color: #8b4513; color: white; padding: 10px; border-radius: 10px;">Report to the Legislature on such modifications annually</div>	<div style="background-color: #1a3d4d; color: white; padding: 10px; border-radius: 10px; margin-bottom: 10px;">Serve as a clearinghouse and information center with respect to state and local sentencing practices data</div> <div style="background-color: #00838f; color: white; padding: 10px; border-radius: 10px; margin-bottom: 10px;">Conduct ongoing research on various matters related to the improvement of the criminal justice system</div> <div style="background-color: #8b4513; color: white; padding: 10px; border-radius: 10px;">Make recommendations to the Legislature regarding changes in criminal law & procedure & other aspects of sentencing</div>
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Distribution of Sentencing Authority

LEGISLATURE	COMMISSION	JUDGES
<ul style="list-style-type: none"> Establish broad policy standards & statutory maximums Review Guidelines 	<ul style="list-style-type: none"> Establish advisory Guidelines to the district court 	<ul style="list-style-type: none"> Impose sentences in individual felony cases (with input from the parties and victims)

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Members Represent Criminal Justice System and Public

 Supreme Court	 Court of Appeals	 District Court
 Public Defenders	 County Attorneys	
 Corrections	 Police	 Probation
 Public (Crime Victims)	 Public	 Public

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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>	306 261-367	326 278-391	346 295-415	366 312-439	386 329-463	406 346-480 ²	426 363-480 ²
<i>Murder, 2nd Degree (Unintentional)</i>	150	165	180	195	210	225	240

Overview of Sentencing Guidelines

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Sentencing Guidelines Grid Structure

- Vertical Axis: Offense Severity (least severe offenses at the bottom)
- Horizontal Axis: Criminal History (zero criminal history at the left)
- Each cell contains a presumptive prison duration (in months)
- Judges must impose this duration (+20%/-15%) or explain reasons why
- Shaded cells: Presumptive stayed sentence (up to 1 yr. jail) unless mandatory minimum applies

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

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Presumptive Sentences

- The presumptive sentences on the grid are generally believed to be appropriate for all “typical” cases sharing the same or similar characteristics.
- A *departure* is a sentence that is something other than the sentence recommended under the guidelines. If the crime or the person being sentenced is truly “atypical” then a departure sentence may be more appropriate than the presumptive sentence.

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Goals of the Sentencing Guidelines

- The Commission maintains and modifies the sentencing guidelines that govern felony sentences in the state, in order to support Minnesota’s sentencing goals.
 - To better assure **public safety**.
 - To promote **uniformity** in sentencing so that those convicted of similar crimes and who have similar criminal records are similarly sentenced.
 - To establish **proportionality** in sentencing by emphasizing a “just deserts” philosophy where the punishment fits the crime. Those convicted of violent offenses—even first-time—and those with more extensive non-violent records are recommended prison.

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Goals of the Sentencing Guidelines

- In addition, the sentencing guidelines embody the following principles:
 - Sentencing should be **neutral** with respect to race, gender, social, or economic status of convicted felons.
 - Prison and jail **capacity** is finite and should be reserved for those convicted of more serious offenses or for those with longer criminal histories.
 - Departures should be made only when **substantial and compelling** circumstances exist.

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Commission's Resources for the Legislature

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Report to the Legislature – To Be Published January 13

- Proposed 2023 changes to the Sentencing Guidelines
 - No 2022 changes to report
- Recommendations to the Legislature
- Report on mandated review of sex trafficking sentencing guidelines
- Summary of 2021 felony sentencing practices in Minnesota
- County attorney firearms reports

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Recommendations to the Legislature

Because ...	The Commission recommends that the Legislature ...
The Aggravated Sex Trafficking statute doesn't define important technical terms "debt bondage" and "forced labor or services"	Cross-reference the definitions of those terms from the Labor Trafficking statute
When the 2021 Legislature updated all criminal sex-related "under/at least 13" age thresholds to "under/at least 14," it missed one	Change Prostitution so all six "under/at least 14" age thresholds are consistent
Statutory "violent crime" list includes 1st-Degree Witness Tampering, but excludes the more-violent <i>Aggravated 1st-Degree Witness Tampering</i>	Add Aggravated First-Degree Witness Tampering to the list – or just replace 1st-Degree with Aggravated 1st-Degree

Still outstanding: a 2020 recommendation to define the minimum term of imprisonment for a life sentence for 1st-Degree Murder of an Unborn Child

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Key Points of 2021 Sentencing Practices Summary

- Among all states, Minnesota has 6th-lowest imprisonment rate (but 5th-highest probation rate)
- The 2021 felony case volume (14,429 people sentenced) rebounded sharply (+25%) following the 2020 drop (-34%)
- The Sentencing Guidelines recommended executed prison at record-high rate (36.1%)
- Among those prison-recommended cases, there was a record-high mitigated dispositional departure rate (45.7%)
- The average pronounced prison sentence length (54 months) was a record high
- Case volume, actual incarceration rates, and presumptive imprisonment rates continue to vary by race and geography,

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Other Resources for the Legislature

Six-person MSGC staff—

- Publishes sentencing-practices data reports (web site)
- Prepares individual sentencing data reports upon request
- Estimates prison-bed impact of crime bills
 - Tip: Most of the impact is felt long-term
- Estimates racial & demographic impact of select crime bills

We can also return to this committee to brief you on—

- Details of felony sentencing practices and trends
- Proposed changes to the Guidelines
- Details of legislative recommendations
- Sex trafficking review
- Possible budget change requests – to advance sentencing policy & data for Minnesota

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4.A. Sentencing Guidelines Grid

Presumptive sentence lengths are in months. Italicized numbers within the grid denote the discretionary range within which a court may sentence without the sentence being deemed a departure. Offenders with stayed felony sentences may be subject to local confinement.

SEVERITY LEVEL OF CONVICTION OFFENSE (Example offenses listed in italics)	CRIMINAL HISTORY SCORE						
	0	1	2	3	4	5	6 or more
<i>Murder, 2nd Degree (Intentional; Drive-By-Shootings)</i>	11 306 <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>346-480²</i>	426 <i>363-480²</i>
<i>Murder, 2nd Degree (Unintentional)</i> <i>Murder, 3rd Degree (Depraved Mind)</i>	10 150 <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>	9 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>	8 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>	7 36	42	48	54 <i>46-64</i>	60 <i>51-72</i>	66 <i>57-79</i>	72 <i>62-84^{2, 3}</i>
<i>Assault, 2nd Degree</i> <i>Burglary, 1st Degree (Occupied Dwelling)</i>	6 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>	5 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>	4 12 ¹	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>	3 12 ¹	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>	2 12 ¹	12 ¹	13	15	17	19	21 <i>18-25</i>
<i>Assault, 4th Degree</i> <i>Fleeing a Peace Officer</i>	1 12 ¹	12 ¹	12 ¹	13	15	17	19 <i>17-22</i>

¹ 12¹=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.

² 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.

³ The stat. max. for Financial Exploitation of Vulnerable Adult is 240 months; the standard range of 20% higher than the fixed duration applies at CHS 6 or more. (The range is 62-86.)

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>	A	144	156	168	180	234	306	360
		<i>144-172</i>	<i>144-187</i>	<i>144-201</i>	<i>153-216</i>	<i>199-280</i>	<i>261-360</i>	<i>306-360</i> ²
<i>CSC 2nd Degree–1(a)(b)(c)(d)(e) 1a(a)(b)(c)(d)(h)(i) (e.g., contact & force with bodily harm)</i>	B	90	110	130	150	195	255	300
		<i>90</i> ³ -108	<i>94-132</i>	<i>111-156</i>	<i>128-180</i>	<i>166-234</i>	<i>217-300</i>	<i>255-300</i> ²
<i>CSC 3rd Degree–1(a)(b)(c)(d) 1a(c)(d)(g)(h)(i) (e.g., penetration & coercion/occupation)</i>	C	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>	D	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 & coercion/occupation)</i>	E	24	36	48	60	78	102	120
					<i>51-72</i>	<i>67-93</i>	<i>87-120</i>	<i>102-120</i> ²
<i>CSC 4th Degree–1a(a)(b)(e)(f) (age) CSC 5th Degree–3(b) (subsequent)</i>	F	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>	G	15	20	25	30	39	51	60
						<i>34-46</i>	<i>44-60</i>	<i>51-60</i> ²
<i>CSC 5th Degree–3(a) (nonconsensual penetration)</i>	H	12 ¹	14	16	18	24	24 ²	24 ²
							<i>24-24</i>	<i>24-24</i>
<i>Failure to Register as a Predatory Offender</i>	I	12 ¹	14	16	18	24	30	36
		<i>12</i> ¹ -14	<i>12</i> ¹ -16	<i>14-19</i>	<i>16-21</i>	<i>21-28</i>	<i>26-36</i>	<i>31-43</i>

¹ 12¹=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.

² 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.

³ 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>	D9	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>	D8	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>	D7	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>	D6	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>	D5	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>	D4	12 ¹	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>	D3	12 ¹	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>	D2	12 ¹	12 ¹	13	15	17	19	21 <i>18-25</i>
<i>Sale of Simulated Controlled Substance</i>	D1	12 ¹	12 ¹	12 ¹	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).

¹ 12¹=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.