

Minnesota Sentencing Guidelines Commission

L PROPOSED MODIFICATIONS TO THE SENTENCING GUIDELINES EFFECTIVE AUGUST 1, 1987 *

Proposed Modifications to Section V. Offense Severity Reference Table:

IX Murder 3 - 609.195 (a)

VIII Murder 3 - 609.195 (b)

VII Criminal Sexual Conduct 3 - 609.344 (c),(d),(g),(h),(i), ~~(j)~~, & (k)
Great Bodily Harm Caused by Distribution of Drugs - 609.228
Manslaughter 1 - 609.20(4)
Sale of Cocaine - 152.15, subd. 1(1) (i), (v), & (vi)
Sale of Hallucinogens or PCP - 152.15, subd. 1(1) (v) & (vi)
Sale of Heroin - 152.15, subd. 1(1) (v) & (vi)
Sale of Remaining Schedule I & II Narcotics - 152.15, subd. 1(1) (v) & (vi)
Theft over \$35,000 - 609.52, subd. 3 (1)

VI Criminal Sexual Conduct 4 - 609.345(c),(d),(g),(h),(i), ~~(j)~~, & (k)
Sale of Cocaine - 152.15, subd. 1(1) (ii)
Sale of Hallucinogens or PCP - 152.15, subd. 1(1) (iii)
Sale of Heroin - 152.15, subd. 1 (1) (ii)
Sale of Remaining Schedule I & II Narcotics - 152.15, subd. 1(1) (iv)

IV Sale of Remaining Schedule I, II, & III Non-Narcotics - 152.15, subd. 1 (3) (i)

III ~~Aggravated Forgery (over \$2,500) - 609.625-~~
Check Forgery (over \$2,500) - 609.631, subd. 4(1)
Sale of Marijuana/Hashish/Tetrahydrocannabinols - 152.15, subd. 1(3) (i)
Sale of Remaining Schedule I, II, & III Non-Narcotics - 152.15, subd. 1(3) (ii)
Sale of a Schedule IV Substance - 152.15, subd. 1(4) (i)
Theft of a Motor Vehicle - 609.52, subd. 3 (4) (f)

II Accidents - 169.09, subd. 14(a) (3) *(Effective August 1, 1988)
~~Aggravated Forgery (\$250 - \$2,500) - 609.625-~~
Check Forgery (\$200 - \$2,500) - 609.631, subd. 4 (2) (a)
Damage to Property - 609.595, subd. 1(2) ~~(3)~~, & (4)
Killing a Police Dog - 609.596
Sale of Marijuana/Hashish/Tetrahydrocannabinols - 152.15, subd. 1(3) (ii)
Sale of a Schedule IV Substance - 152.15, subd. 1(4) (ii)

I ~~Aggravated Forgery (Less than \$250) - 609.625-~~
Check Forgery (less than \$200) - 609.631, subd. 4(2) (b)
Sale of Schedule V Substance - 152.15, subd. 1 (5) (i)

Proposed Modifications to the Theft Related Offense List:

Financial Transaction Card Fraud
609.821, subd. 2(1), (2), (5), (6), (7), & (8)

~~Unauthorized Use of Credit Card
609.52, subd. 2(2)~~

II. PROPOSED MODIFICATIONS NOT REQUIRING ANY CHANGES TO THE SENTENCING GUIDELINES EFFECTIVE AUGUST 1, 1987.

These proposals address new legislation but do not require any changes to the sentencing guidelines because they can be incorporated into the current references.

- 1) Tampering with a Witness - 609.498, subd. 1 (b) will be ranked with all other witness tampering at severity level V.
- 2) Theft for Amounts More Than \$200 but Less Than \$500 - 609.52, subd. 3(3) (c) will be incorporated in Theft Crimes - severity level III and Theft Related Crimes - severity level II.
- 3) Financial Transaction Card Fraud for Amounts not More Than \$200 - 609.821, subd. 3 (i) (iii) will be incorporated in Theft Related Crimes - severity level II.

**III. PROPOSED MODIFICATIONS TO THE COMMENTARY EFFECTIVE
AUGUST 1, 1987**

Proposed Modifications to II.A.03 (Exclusions from Offense Severity Reference Table):

- ~~9.~~ ~~Criminal Syndicalism - 609.405~~
- 9. ~~10.~~ Falsely impersonating another - 609.83
- 10. Hazardous Wastes - 609.671; 115.071, subd. 2(2)
- 20. Pipeline safety - 299J.07, subd. 2
- 21. Police radios during commission of crime - 609.856
- ~~22.~~ ~~20.~~ Possession of pictorial representations of minors - 617.24
- 23. ~~21.~~ Prohibiting promotion of minors to engage in obscene works - 627.246
- 24. ~~22.~~ Sales tax without permit, violations - 297A.08
- 25. ~~23.~~ Treason - 609.385

Proposed Modifications to II.B.:

II.B.109. An offense upon which a judgment of guilty has not been entered before the current sentencing; i.e., pursuant to Minn. Stat. § 152.18, Subd. 1, shall not be assigned a felony point in computing the criminal history score.

II.B.201. The basic rule assigns offenders one point if they were under some form of criminal justice custody following conviction of a felony or gross misdemeanor when the offense was committed for which they are now being sentenced. Criminal justice custodial status includes probation (supervised or unsupervised), parole, supervised release, or confinement in a jail, workhouse, or prison, or work release, following conviction of a felony or gross misdemeanor, or release pending sentencing following the entry of a plea of guilty to a felony or gross misdemeanor, or a verdict of guilty by a jury or a finding of guilty by the court of a felony or gross misdemeanor. Probation given for an offense treated pursuant to Minn. Stat. 152.18, subd. 1, will result in the assignment of a custody status point because a guilty plea has previously been entered and the offender has been on a probationary status. Commitments under Minn. R. - Crim. P. 20, and juvenile parole, probation, or other forms of juvenile custody status are not included because, in those situations, there has been no conviction for a felony or gross misdemeanor which resulted in the individual being under such status. Probation, jail, or other custody status arising from a conviction for misdemeanor or gross misdemeanor traffic offenses are excluded. Probation, parole, and, in the future, supervised release will be the custodial statuses that most frequently will result in the assignment of a point. . . .

II.B.307. Misdemeanor convictions under Minn. Stat. § 340A.503 will not be used to compute the criminal history score. Because it is not the nature of the act but the age of the offender that determines the crime and because the record of violation cannot be disclosed absent an order by the court, the Commission believes it is inappropriate to include these convictions in the criminal history score.