



Minnesota Sentencing Guidelines Commission

Adopted Modifications to the Sentencing Guidelines Effective for Crimes Committed on/after August 8, 2003

I. Adopted Modifications to Rank the Severity of New or Amended Crimes Passed by the Legislature during the 2003 Session or 2003 Special Session – Effective August 8, 2003

A. The Commission adopted a proposal to rank the following crimes in Section V. OFFENSE SEVERITY REFERENCE TABLE as follows:

V. OFFENSE SEVERITY REFERENCE TABLE

| | |
|------|--|
| VIII | <u>Identity Theft – 609.527, subd. 3(5)</u> |
| V | <u>Interference with Emergency Communications – 609.776</u> |
| III | <u>Attempted Manufacture of Methamphetamine – 152.021, subd. 2a(b)</u> |
| II | <u>Mail Theft – 609.529</u> |

NUMERICAL REFERENCE OF FELONY STATUTES

| STATUTE | OFFENSE | SEVERITY LEVEL |
|---|---|----------------|
| <u>152.021, subd. 2a(b)¹</u> | <u>Attempted Manufacture of Methamphetamine</u> | <u>3</u> |
| <u>609.527, subd. 3(5)</u> | <u>Identity Theft</u> | <u>8</u> |
| <u>609.529</u> | <u>Mail Theft</u> | <u>2</u> |
| <u>609.776</u> | <u>Interference with Emergency Communications</u> | <u>5</u> |

¹ The presumptive duration for this offense is the time found in the appropriate cell on the Sentencing Grid or the mandatory minimum, whichever is longer. Durations should not be divided in half. Policies applying to Attempts under M.S. §609.17 in section II.G. Convictions for Attempts, Conspiracies, and Other Sentence Modifiers are not applicable.

B. The Commission adopted a proposal to add the following crime to the *Misdemeanor and Gross Misdemeanor Offense List*

Misdemeanor and Gross Misdemeanor Offense List

Assault in the Fourth Degree
609.2231, subd. 1, 2a, 4, 5, & 6, & 7

II. Other Adopted Modifications Related to a Legislative Directive Passed by the Legislature during the 2003 Special Session – Effective August 8, 2003

A. The Commission adopted a proposal to add the following language to II.D. of the *Sentencing Guidelines and Commentary* to address the legislative directive requiring a new aggravating factor for Identity Theft:

D. Departures from the Guidelines: ****

2. Factors that may be used as reasons for departure: The following is a nonexclusive list of factors which may be used as reasons for departure:

b. Aggravating Factors:

(12) The offender's use of another's identity without authorization to commit a crime. This aggravating factor may not be used when the use of another's identity is an element of the offense.

B. The Commission adopted a proposal to add the following language to II.D. of the *Sentencing Guidelines and Commentary* to address new legislation allowing alternative placement for offenders with serious and persistent mental illness as defined in M.S. §609.1055:

D. Departures from the Guidelines: ****

2. Factors that may be used as reasons for departure: The following is a nonexclusive list of factors which may be used as reasons for departure:

a. Mitigating Factors:

- (6) Alternative placement for offender with serious and persistent mental illness (See Minn. Stat. §609.1055).

III. Other Adopted Modifications – Effective August 8, 2003

- A. The Commission adopted a proposal to add the following crime to the *Misdemeanor and Gross Misdemeanor Offense List*

Misdemeanor and Gross Misdemeanor Offense List

Registration of Predatory Offenders
243.166, subd. 5

- B. The Commission adopted a proposal to add the following language to II.B.2. of the *Sentencing Guidelines and Commentary* to clarify that a Custody Status Point should not be assigned if the current offense was committed within the original length of stay and the probationary sentence for the prior offense was revoked and the offender served an executed sentence:

- c. committed the current offense within the period of the initial length of stay pronounced by the sentencing judge for a prior felony, gross misdemeanor or an extended jurisdiction juvenile conviction. This policy does not apply if the probationary sentence for the prior offense is revoked, and the offender serves an executed sentence.

II.B.201. The basic rule assigns offenders one point if they were under some form of criminal justice custody when the offense was committed for which they are now being sentenced. The Commission believes that the potential for a custody status point should remain for the entire period of the initial length of stay pronounced by the sentencing judge. An offender who is discharged early but subsequently is convicted of a new felony within the period of the initial length of stay should still receive the consequence of a custody status point. If probation is revoked and the offender serves an executed sentence for the prior offense, eligibility for the custody status point ends with discharge from the sentence.

IV. Technical Modifications and Corrections – Effective August 8, 2003

A. The Commission adopted a proposal to make the following technical changes to statutes in Section V. OFFENSE SEVERITY REFERENCE TABLE:

V. OFFENSE SEVERITY REFERENCE TABLE

| | |
|-----|--|
| IX | Prostitution (Patron) <u>Engage or Hire a Minor to Engage in Prostitution</u> - 609.324, subd. 1(a) |
| V | Prostitution (Patron) <u>Engage or Hire a Minor to Engage in Prostitution</u> - 609.324, subd. 1(b) |
| IV | Negligent Fires - Great Bodily Harm – 609.576 subd. 1 (a) <u>(1)</u> |
| III | Prostitution (Patron) <u>Engage or Hire a Minor to Engage in Prostitution</u> - 609.324, subd. 1(c) |
| II | Negligent Fires - Damage Exceeds \$2,500 <u>or more</u> – 609.576 subd. 1 (b) (3) <u>(iii)</u> |
| I | Pistol w/out Permit (subsequent violations) - 624.714 subd. 1 (a) <u>a</u> |

NUMERICAL REFERENCE OF FELONY STATUTES

| | | |
|---|--|---|
| 609.324 subd. 1(a) | Prostitution (Patron) <u>Engage or Hire a Minor to Engage in Prostitution</u> | 9 |
| 609.324 subd. 1(b) | Prostitution (Patron) <u>Engage or Hire a Minor to Engage in Prostitution</u> | 5 |
| 609.324 subd. 1(c) | Prostitution (Patron) <u>Engage or Hire a Minor to Engage in Prostitution</u> | 3 |
| 609.576 subd. 1 (a) <u>(1)</u> | Negligent Fires - Great Bodily Harm | 4 |
| 609.576 subd. 1 (b) (3) <u>(iii)</u> | Negligent Fires - Damage Exceeds \$2,500 <u>or more</u> | 2 |
| 624.714 subd. 1 (a) <u>a</u> | Pistol w/out Permit (subsequent violations) | 1 |

B. The Commission adopted a proposal to make the following technical changes to Section V. OFFENSE SEVERITY REFERENCE TABLE and the Theft Offense List due to repealed statutes:

V. OFFENSE SEVERITY REFERENCE TABLE

~~Excise Tax on Alcoholic Beverages— 297C.13, subd. 1~~
~~Liquor Taxation-Criminal Penalties 297G.19 subd. 3, 4(c), 5(c)~~

~~Motor Vehicle Taxes— 296.25, subd. 1(b)~~
~~Tax on Petroleum and Other Fuels-Willful Evasion 296A.23 subd. 2~~

Theft Offense List

It is recommended that the following property crimes be treated similarly. This is the list cited for the two THEFT CRIMES (\$2,500 or less and over \$2,500) in the Offense Severity Reference Table.

~~Theft by Soldier of Military Goods~~
~~192.36~~

NUMERICAL REFERENCE OF FELONY STATUTES

| STATUTE | OFFENSE | SEVERITY LEVEL |
|--|---|-----------------------|
| 192.36 | Theft by Soldier of Military Goods \$2,500 or less | 2 |
| 192.36 | Theft by Soldier of Military Goods over \$2,500 | 3 |
| 296.25 subd. 1(b) | Motor Vehicle Taxes | 4 |
| 296A.23 subd. 2 | Tax on Petroleum and Other Fuels – Willful Evasion | 1 |
| 297C.13 subd. 1 | Excise Tax on Alcoholic Beverages | 4 |
| 297G.19 subd. 3, 4(c), 5(c) | Liquor Taxation-Criminal Penalties | 1 |