



Do judges have to follow the guidelines?

The guidelines are recommendations; judges have sentencing discretion.

What is a departure?

When a judge imposes a sentence different from the recommended guideline sentence.

When the court departs from the guidelines, the judge must explain the rationale behind this decision.

Departures from the guidelines require aggravating or mitigating factors that the judge must explain. These decisions are subject to judicial review.

300 S. Sixth St.
 Minneapolis, MN 55487
 612-348-5550

www.hennepinattorney.org
citizeninfo@co.hennepin.mn.us

Sentencing Guidelines

Understanding Sentencing Guidelines

The goal of the sentencing guidelines is uniform and proportional sentences – similar offenders who commit similar offenses will receive similar sentences. They also help manage correctional resources. The guidelines apply only to adult felony offenses.

The Minnesota Sentencing Guidelines are determined by a Commission whose members are appointed by Chief Justice The Minnesota Supreme Court or the Governor. The Commission was established by the Minnesota Legislature in 1978 and files reports with the legislature.

More information is available online at www.msgc.state.mn.us.

Guidelines for Select Offenses

Offense	Description	Severity Level	Presumptive Sentence with zero criminal history points
Felon in possession	Someone who has been previously convicted of a “crime of violence” is prohibited from possessing a firearm.	6	Presumptive prison: 60 months This offense has a <i>mandatory minimum of 60 months in prison</i>
Burglary 1	Burglary with a dangerous weapon, burglary and assault	8	Presumptive prison: 41-57 months
Burglary 1	Burglary of an occupied dwelling	6	Presumptive probation: 21 months, stayed This offense has a <i>mandatory minimum of 180 days in the workhouse</i>
Burglary 2	Residential burglary (unoccupied)	5	Presumptive probation: 18 months, stayed This offense has a <i>mandatory minimum of 90 days in the workhouse</i>
Burglary 2	Non-residential burglary: Burglary of a bank or similar business Burglary of a government building, religious establishment, historic property, or school	4	Presumptive probation: A year and a day, stayed

Misdemeanors

The guidelines do not apply to misdemeanor offenses. Sentences cannot include prison.

A misdemeanor is punishable by 0-90 days in a local incarceration facility.

A gross misdemeanor is punishable by 91-365 days.

Misdemeanors include:

- Assault 5 (often domestic assault)
- Disorderly conduct
- Damage to property
- Graffiti
- Theft of less than \$1,000
- Trespass
- Loitering
- Liquor offenses

Burglary 3	Burglary of an unoccupied building (often a garage or business)	4	Presumptive probation: A year and a day, stayed
Theft from Person		4	Presumptive probation: A year and a day, stayed
Theft of Motor Vehicle		4	Presumptive probation: A year and a day, stayed
Precious Metal and Scrap Metal Dealers, Receiving Stolen Goods	Second or subsequent violation	4	Presumptive probation: A year and a day, stayed
Precious Metal and Scrap Metal Dealers, Receiving Stolen Goods	First violation (\$1,000 or more)	3	Presumptive probation: A year and a day, stayed
Receiving Stolen Goods	Over \$5,000	3	Presumptive probation: A year and a day, stayed
Theft Crimes	Over \$5,000	3	Presumptive probation: A year and a day, stayed
Precious Metal and Scrap Metal Dealers, Receiving Stolen Goods	First violation (less than \$1,000)	2	Presumptive probation: A year and a day, stayed
Receiving Stolen Goods	Less than \$5,000	2	Presumptive probation: A year and a day, stayed
Theft Crimes	Less than \$5,000	2	Presumptive probation: A year and a day, stayed

Examples of theft crimes include: fraud, receiving stolen property, swindle, false representation, non-payment for improvements

Understanding the Criminal History Point Scale

Most prior felony offenses are assigned points if they meet eligibility criteria:

- The prior felony offense occurred in Minnesota
 - Non-Minnesota offenses must have an equivalent felony statute in Minnesota
- The prior offense received a stayed or imposed sentence of at least year and a day
- The offense occurred within the last 15 years

Most eligible prior felonies are assigned 1 criminal history point. Felonies that are considered more severe, such as murder, sex crimes, or gun crimes are assigned greater point values up to 2 points. Less severe crimes are assigned ½ point.

