

## Brief Overview of Enhanced Criminal Sexual Conduct Sentencing Provisions

### First-Degree Criminal Sexual Conduct

Presumptive executed sentence of 144 months (regardless of criminal history) (unless a longer mandatory minimum sentence is otherwise required or the sentencing guidelines presume a longer executed sentence). Failure to impose this sentence is a departure under the sentencing guidelines.

### Certain Second-Degree Criminal Sexual Conduct Offenses

Presumptive executed sentence of 90 months (regardless of criminal history). Applies only to certain egregious second-degree offenses where the actor:

- causes injury to the complainant under certain circumstances;
- is armed with a dangerous weapon;
- creates reasonable fear on the part of the complainant of imminent great bodily harm;
- is aided or abetted by one or more accomplices under certain circumstances; or
- has a family-type relationship with a complainant younger than 16 and certain other circumstances exist.

This presumptive sentence does not apply to other second-degree criminal sexual conduct offenses.

Does not apply if a longer mandatory minimum sentence is otherwise required by law or the sentencing guidelines presume a longer executed sentence. Failure to impose this is a departure under the sentencing guidelines.

### Patterned Offender Sentencing Statute

If the court is imposing an executed sentence on an offender for a predatory crime (as defined in statute) **and** the court reasonably believes the crime is motivated by the defendant's sexual impulses or was part of a predatory pattern of behavior that had criminal sexual conduct as its goal, **and** the court finds that the defendant is a danger to public safety (a defined concept) **and** the court finds that the defendant needs long-term treatment or supervision beyond the presumptive term of imprisonment and supervised release, the court **must** sentence the offender to **not less than double the presumptive prison sentence** and not more than the statutory maximum sentence. In addition, the court **must** order that the offender be placed on **conditional release** for the remainder of the statutory maximum term or **ten years** (whichever is longer) following release from prison. The

court must consider sentencing under the patterned offender law whenever an offender is convicted of criminal sexual conduct in the first- or second-degree. A sentence under this statute is a departure from the sentencing guidelines. Please note that subdivision 2 of the statute (providing for a 40-year statutory maximum) has been struck down by the Minnesota Supreme Court.

### **Mandatory Sentences for Repeat Sex Offenders**

#### **Three years**

The court must impose at least a three-year prison sentence on a person convicted of first-through fourth-degree criminal sexual conduct within 15 years of a previous sex offense conviction. The sentence may be stayed only if the offender is determined to be amenable to treatment and treatment and local incarceration is ordered.

#### **Twice the Presumptive Sentence**

The court must sentence an offender to at least twice the presumptive guidelines sentence if the offender was convicted of forcible or violent criminal sexual conduct in the first, second, or third degree and the court determines that the crime involved an aggravating factor justifying an upward sentencing departure.

#### **30 Years**

The court must impose and execute at least a 30-year prison sentence on a person convicted of first- or second-degree criminal sexual conduct involving force or violence if it determines that both of the following circumstances exist:

- the crime involved an aggravating factor justifying an upward sentencing departure (other than the “repeat offender” aggravating factor); and
- the person has a previous conviction (within the past 15 years) for criminal sexual conduct in the first, second, or third degree.

#### **Life**

The court must impose a life sentence (minimum of 30 years served) on a person convicted of first-degree criminal sexual conduct if it determines that any of the following circumstances exist:

- the person has been sentenced previously under the three strikes law;
- the person was previously convicted (before August 1, 1989) of criminal sexual conduct in the first, second, or third degree and was sentenced to at least twice the presumptive sentence; or
- the person has two previous convictions for criminal sexual conduct in the first, second,

or third degree and was discharged from the sentence for the most recent prior conviction within the past 15 years.

### **Other Mandatory Provisions**

Convicted sex offenders also are subject to several other mandatory provisions that are designed to minimize their recidivism risk.

#### **Minimum Conditional Release Term**

If a court sentences an offender convicted of first- through fourth-degree criminal sexual conduct to prison, the court must also sentence the offender to serve a minimum period of “conditional release” after release from prison. The mandatory conditional release periods are five years for first-time offenders and ten years for repeat offenders. The conditional release period runs concurrently with the offender’s supervised release term and may extend beyond the statutory maximum sentence for the underlying crime. These conditional release requirements are independent of the one required in the patterned offender sentencing statute.

#### **Mandatory Sex Offender Assessment and Treatment**

The court must order a sex offender treatment assessment for any person convicted of criminal sexual conduct (any degree), surreptitious intrusion, obscene phone calls, or indecent exposure. The court may waive the assessment if the offender is eligible for a presumptive prison sentence or has already been assessed. A more detailed assessment (one that cannot be waived) is required for repeat sex offenders. The court must consider this when sentencing the offender and when making a preliminary determination as to recommending civil commitment.

If the assessment indicates the offender is in need of and amenable to treatment, the court must order the offender to undergo treatment if the court places the offender on probation.

#### **Mandatory Preliminary Determinations on Civil Commitment**

Minnesota Statutes, sections 609.1351 and 244.05 require preliminary determinations to be made as to the appropriateness of commitment as a sexual psychopathic personality or a sexually dangerous person. Section 609.1351 requires a court to make this determination when sentencing a person for first- through fourth-degree criminal sexual conduct or as a patterned sex offender. Section 244.05 generally requires the Commissioner of Corrections to make a similar determination at least 12 months before such an offender is to be released from prison.

#### **Other Applicable Provisions**

In addition, a sex offender is subject to mandatory collection of specimens for **DNA testing and predatory offender registration** and may be subject to **community notification and civil commitment**.



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## Minnesota Statutes 2004, 609.341

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Minnesota Statutes 2004, Table of Chapters

Table of contents for Chapter 609

### 609.341 Definitions.

Subdivision 1. **Scope.** For the purposes of sections 609.341 to 609.351, the terms in this section have the meanings given them.

Subd. 2. **Actor.** "Actor" means a person accused of criminal sexual conduct.

Subd. 3. **Force.** "Force" means the infliction, attempted infliction, or threatened infliction by the actor of bodily harm or commission or threat of any other crime by the actor against the complainant or another, which (a) causes the complainant to reasonably believe that the actor has the present ability to execute the threat and (b) if the actor does not have a significant relationship to the complainant, also causes the complainant to submit.

Subd. 4. **Consent.** (a) "Consent" means words or overt actions by a person indicating a freely given present agreement to perform a particular sexual act with the actor. Consent does not mean the existence of a prior or current social relationship between the actor and the complainant or that the complainant failed to resist a particular sexual act.

(b) A person who is mentally incapacitated or physically helpless as defined by this section cannot consent to a sexual act.

(c) Corroboration of the victim's testimony is not required to show lack of consent.

Subd. 5. **Intimate parts.** "Intimate parts" includes the primary genital area, groin, inner thigh, buttocks, or breast of a human being.

Subd. 6. **Mentally impaired.** "Mentally impaired" means that a person, as a result of inadequately developed or impaired intelligence or a substantial psychiatric disorder of thought or mood, lacks the judgment to give a reasoned consent to sexual contact or to sexual penetration.

Subd. 7. **Mentally incapacitated.** "Mentally incapacitated" means that a person under the influence of alcohol, a narcotic, anesthetic, or any other substance, administered to that person without the

person's agreement, lacks the judgment to give a reasoned consent to sexual contact or sexual penetration.

Subd. 8. **Personal injury.** "Personal injury" means bodily harm as defined in section 609.02, subdivision 7, or severe mental anguish or pregnancy.

Subd. 9. **Physically helpless.** "Physically helpless" means that a person is (a) asleep or not conscious, (b) unable to withhold consent or to withdraw consent because of a physical condition, or (c) unable to communicate nonconsent and the condition is known or reasonably should have been known to the actor.

Subd. 10. **Position of authority.** "Position of authority" includes but is not limited to any person who is a parent or acting in the place of a parent and charged with any of a parent's rights, duties or responsibilities to a child, or a person who is charged with any duty or responsibility for the health, welfare, or supervision of a child, either independently or through another, no matter how brief, at the time of the act. For the purposes of subdivision 11, "position of authority" includes a psychotherapist.

Subd. 11. **Sexual contact.** (a) "Sexual contact," for the purposes of sections 609.343, subdivision 1, clauses (a) to (f), and 609.345, subdivision 1, clauses (a) to (e), and (h) to (m), includes any of the following acts committed without the complainant's consent, except in those cases where consent is not a defense, and committed with sexual or aggressive intent:

(i) the intentional touching by the actor of the complainant's intimate parts, or

(ii) the touching by the complainant of the actor's, the complainant's, or another's intimate parts effected by a person in a position of authority, or by coercion, or by inducement if the complainant is under 13 years of age or mentally impaired, or

(iii) the touching by another of the complainant's intimate parts effected by coercion or by a person in a position of authority, or

(iv) in any of the cases above, the touching of the clothing covering the immediate area of the intimate parts.

(b) "Sexual contact," for the purposes of sections 609.343, subdivision 1, clauses (g) and (h), and 609.345, subdivision 1, clauses (f) and (g), includes any of the following acts committed with sexual or aggressive intent:

(i) the intentional touching by the actor of the complainant's intimate parts;

(ii) the touching by the complainant of the actor's, the complainant's, or another's intimate parts;

(iii) the touching by another of the complainant's intimate parts; or

(iv) in any of the cases listed above, touching of the clothing covering the immediate area of the intimate parts.

(c) "Sexual contact with a person under 13" means the intentional touching of the complainant's bare genitals or anal opening by the actor's bare genitals or anal opening with sexual or aggressive intent or the touching by the complainant's bare genitals or anal opening of the actor's or another's bare genitals or anal opening with sexual or aggressive intent.

Subd. 12. **Sexual penetration.** "Sexual penetration" means any of the following acts committed without the complainant's consent, except in those cases where consent is not a defense, whether or not emission of semen occurs:

(1) sexual intercourse, cunnilingus, fellatio, or anal intercourse; or

(2) any intrusion however slight into the genital or anal openings:

(i) of the complainant's body by any part of the actor's body or any object used by the actor for this purpose;

(ii) of the complainant's body by any part of the body of the complainant, by any part of the body of another person, or by any object used by the complainant or another person for this purpose, when effected by a person in a position of authority, or coercion, or by inducement if the child is under 13 years of age or mentally impaired; or

(iii) of the body of the actor or another person by any part of the body of the complainant or by any object used by the complainant for this purpose, when effected by a person in a position of authority, or by coercion, or by inducement if the child is under 13 years of age or mentally impaired.

Subd. 13. **Complainant.** "Complainant" means a person alleged to have been subjected to criminal sexual conduct, but need not be the person who signs the complaint.

Subd. 14. **Coercion.** "Coercion" means words or circumstances that cause the complainant reasonably to fear that the actor will inflict bodily harm upon, or hold in confinement, the complainant or another, or force the complainant to submit to sexual penetration or contact, but proof of coercion does not require proof of a specific act or threat.

Subd. 15. **Significant relationship.** "Significant relationship" means a situation in which the actor is:

(1) the complainant's parent, stepparent, or guardian;

(2) any of the following persons related to the complainant by blood, marriage, or adoption: brother, sister, stepbrother, stepsister, first cousin, aunt, uncle, nephew, niece, grandparent, great-grandparent, great-uncle, great-aunt; or

(3) an adult who jointly resides intermittently or regularly in the same dwelling as the complainant and who is not the complainant's spouse.

Subd. 16. **Patient.** "Patient" means a person who seeks or obtains psychotherapeutic services.

Subd. 17. **Psychotherapist.** "Psychotherapist" means a person who is or purports to be a physician, psychologist, nurse, chemical dependency counselor, social worker, marriage and family therapist, licensed professional counselor, or other mental health service provider; or any other person, whether or not licensed by the state, who performs or purports to perform psychotherapy.

Subd. 18. **Psychotherapy.** "Psychotherapy" means the professional treatment, assessment, or counseling of a mental or emotional illness, symptom, or condition.

Subd. 19. **Emotionally dependent.** "Emotionally dependent" means that the nature of the former patient's emotional condition and the nature of the treatment provided by the psychotherapist are such that the psychotherapist knows or has reason to know that the former patient is unable to withhold consent to sexual contact or sexual penetration by the psychotherapist.

Subd. 20. **Therapeutic deception.** "Therapeutic deception" means a representation by a psychotherapist that sexual contact or sexual penetration by the psychotherapist is consistent with or part of the patient's treatment.

Subd. 21. **Special transportation.** "Special transportation service" means motor vehicle transportation provided on a regular basis by a public or private entity or person that is intended exclusively or primarily to serve individuals who are vulnerable adults, handicapped, or disabled. Special transportation service includes, but is not limited to, service provided by buses, vans, taxis, and volunteers driving private automobiles.

HIST: 1975 c 374 s 2; 1977 c 130 s 8; 1979 c 258 s 9-11; 1981 c 51 s 1; 1982 c 385 s 1; 1982 c 469 s 9; 1984 c 525 s 3; 1984 c 588 s 5,6; 1985 c 24 s 3,4; 1985 c 286 s 14; 1985 c 297 s 1-5; 1986 c 351 s 6,7; 1986 c 444; 1987 c 198 s 1-3; 1987 c 347 art 1 s 22; 1988 c 413 s 1; 1989 c 290 art 4 s 11; 1993 c 326 art 4 s 17-19; 1994 c 636 art 2 s 30-33; 1995 c 226 art 2 s 18; 1998 c 367 art 3 s 5,6; 2001 c 210 s 21; 2002 c 379 art 1 s 106; 2002 c 381 s 1; 2003 c 118 s 22

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Minnesota Statutes 2004, Table of ChaptersTable of contents for Chapter 609**609.342 Criminal sexual conduct in the first degree.**

division 1. **Crime defined.** A person who engages in sexual penetration with another person, or in sexual contact with a person under 13 years of age as defined in section 609.341, subdivision 11, paragraph (c), is guilty of criminal sexual conduct in the first degree if any of the following circumstances exists:

(a) the complainant is under 13 years of age and the actor is more than 36 months older than the complainant. Neither mistake as to the complainant's age nor consent to the act by the complainant is a defense;

(b) the complainant is at least 13 years of age but less than 16 years of age and the actor is more than 48 months older than the complainant and in a position of authority over the complainant. Neither mistake as to the complainant's age nor consent to the act by the complainant is a defense;

(c) circumstances existing at the time of the act cause the complainant to have a reasonable fear of imminent great bodily harm to the complainant or another;

(d) the actor is armed with a dangerous weapon or any article used or fashioned in a manner to lead the complainant to reasonably believe it to be a dangerous weapon and uses or threatens to use the weapon or article to cause the complainant to submit;

(e) the actor causes personal injury to the complainant, and either of the following circumstances exist:

(i) the actor uses force or coercion to accomplish sexual penetration; or

(ii) the actor knows or has reason to know that the complainant is mentally impaired, mentally incapacitated, or physically helpless;

(f) the actor is aided or abetted by one or more accomplices within the meaning of section 609.05, and either of the following circumstances exists:

(i) an accomplice uses force or coercion to cause the complainant to submit; or

(ii) an accomplice is armed with a dangerous weapon or any article used or fashioned in a manner to lead the complainant reasonably to believe it to be a dangerous weapon and uses or threatens to use the weapon or article to cause the complainant to submit;

(g) the actor has a significant relationship to the complainant and the complainant was under 16 years of age at the time of the sexual penetration. Neither mistake as to the complainant's age nor consent to the act by the complainant is a defense; or

(h) the actor has a significant relationship to the complainant, the complainant was under 16 years of age at the time of the sexual penetration, and:

(i) the actor or an accomplice used force or coercion to accomplish the penetration;

(ii) the complainant suffered personal injury; or

(iii) the sexual abuse involved multiple acts committed over an extended period of time.

Neither mistake as to the complainant's age nor consent to the act by the complainant is a defense.

Subd. 2. **Penalty.** (a) Except as otherwise provided in section 609.109, a person convicted under subdivision 1 may be sentenced to imprisonment for not more than 30 years or to a payment of a fine of not more than \$40,000, or both.

(b) Unless a longer mandatory minimum sentence is otherwise required by law or the Sentencing Guidelines provide for a longer presumptive executed sentence, the court shall presume that an executed sentence of 144 months must be imposed on an offender convicted of violating this section. Sentencing a person in a manner other than that described in this paragraph is a departure from the Sentencing Guidelines.

Subd. 3. **Stay.** Except when imprisonment is required under section 609.109, if a person is convicted under subdivision 1, clause (g), the court may stay imposition or execution of the sentence if it finds that:

(a) a stay is in the best interest of the complainant or the family unit; and

(b) a professional assessment indicates that the offender has been accepted by and can respond to a treatment program.

If the court stays imposition or execution of sentence, it shall include the following as conditions of probation:

(1) incarceration in a local jail or workhouse;

(2) a requirement that the offender complete a treatment program; and

(3) a requirement that the offender have no unsupervised contact with the complainant until the offender has successfully completed the treatment program unless approved by the treatment program and the supervising correctional agent.

HIST: 1975 c 374 s 3; 1981 c 51 s 2; 1983 c 204 s 1; 1984 c 628 art 3 s 11; 1985 c 24 s 5; 1985 c 286 s 15; 1986 c 444; 1989 c 290 art 4 s 12; 1992 c 571 art 1 s 14; 1994 c 636 art 2 s 34; 1995 c 186 s 99; 1998 c 367 art 3 s 7; art 6 s 15; 2000 c 311 art 4 s 2; 2000 c 437 s 10

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Minnesota Statutes 2004, Table of ChaptersTable of contents for Chapter 609**609.343 Criminal sexual conduct in the second degree.**

Division 1. **Crime defined.** A person who engages in sexual contact with another person is guilty of criminal sexual conduct in the second degree if any of the following circumstances exists:

(a) the complainant is under 13 years of age and the actor is more than 36 months older than the complainant. Neither mistake as to the complainant's age nor consent to the act by the complainant is a defense. In a prosecution under this clause, the state is not required to prove that the sexual contact was coerced;

(b) the complainant is at least 13 but less than 16 years of age and the actor is more than 48 months older than the complainant and in a position of authority over the complainant. Neither mistake as to the complainant's age nor consent to the act by the complainant is a defense;

(c) circumstances existing at the time of the act cause the complainant to have a reasonable fear of imminent great bodily harm to the complainant or another;

the actor is armed with a dangerous weapon or any article used or fashioned in a manner to lead the complainant to reasonably believe it to be a dangerous weapon and uses or threatens to use the dangerous weapon to cause the complainant to submit;

(e) the actor causes personal injury to the complainant, and either of the following circumstances exist:

(i) the actor uses force or coercion to accomplish the sexual contact; or

(ii) the actor knows or has reason to know that the complainant is mentally impaired, mentally incapacitated, or physically helpless;

(f) the actor is aided or abetted by one or more accomplices within the meaning of section 609.05, and either of the following circumstances exists:

(i) an accomplice uses force or coercion to cause the complainant to submit; or

(ii) an accomplice is armed with a dangerous weapon or any article used or fashioned in a manner to lead the complainant to reasonably believe it to be a dangerous weapon and uses or threatens to use the weapon or article to cause the complainant to submit;

(g) the actor has a significant relationship to the complainant and the complainant was under 16 years of age at the time of the sexual contact. Neither mistake as to the complainant's age nor consent to the act by the complainant is a defense; or

(h) the actor has a significant relationship to the complainant, the complainant was under 16 years of age at the time of the sexual contact, and:

(i) the actor or an accomplice used force or coercion to accomplish the contact;

(ii) the complainant suffered personal injury; or

(iii) the sexual abuse involved multiple acts committed over an extended period of time.

Neither mistake as to the complainant's age nor consent to the act by the complainant is a defense.

Subd. 2. **Penalty.** (a) Except as otherwise provided in section 609.109, a person convicted under subdivision 1 may be sentenced to imprisonment for not more than 25 years or to a payment of a fine of not more than \$35,000, or both.

(b) Unless a longer mandatory minimum sentence is otherwise required by law or the Sentencing Guidelines provide for a longer presumptive executed sentence, the court shall presume that an executed sentence of 90 months must be imposed on an offender convicted of violating subdivision 1, clause (c), (d), (e), (f), or (h). Sentencing a person in a manner other than that described in this paragraph is a departure from the Sentencing Guidelines.

Subd. 3. **Stay.** Except when imprisonment is required under section 609.109, if a person is convicted under subdivision 1, clause (g), the court may stay imposition or execution of the sentence if it finds that:

(a) a stay is in the best interest of the complainant or the family unit; and

(b) a professional assessment indicates that the offender has been accepted by and can respond to a treatment program.

If the court stays imposition or execution of sentence, it shall include the following as conditions of probation:

(1) incarceration in a local jail or workhouse;

(2) a requirement that the offender complete a treatment program; and

(3) a requirement that the offender have no unsupervised contact with the complainant until the offender has successfully completed the treatment program unless approved by the treatment program and the supervising correctional agent.

HIST: 1975 c 374 s 4; 1979 c 258 s 12; 1981 c 51 s 3; 1983 c 204 s 2; 1984 c 628 art 3 s 11; 1985 c 24 s 6; 1985 c 286 s 16; 1986 c 444; 1989 c 290 art 4 s 13; 1992 c 571 art 1 s 15; 1998 c 367 art 3 s 8; art 6 s 15; 2000 c 437 s 11; 2002 c 381 s 2

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Minnesota Statutes 2004, Table of Chapters

Table of contents for Chapter 609

609.344 Criminal sexual conduct in the third degree.

Division 1. Crime defined. A person who engages in sexual penetration with another person is guilty of criminal sexual conduct in the third degree if any of the following circumstances exists:

(a) the complainant is under 13 years of age and the actor is no more than 36 months older than the complainant. Neither mistake as to the complainant's age nor consent to the act by the complainant shall be a defense;

(b) the complainant is at least 13 but less than 16 years of age and the actor is more than 24 months older than the complainant. In any such case it shall be an affirmative defense, which must be proved by a preponderance of the evidence, that the actor believes the complainant to be 16 years of age or older. If the actor in such a case is no more than 48 months but more than 24 months older than the complainant, the actor may be sentenced to imprisonment for not more than five years. Consent by the complainant is not a defense;

(c) the actor uses force or coercion to accomplish the penetration;

(d) the actor knows or has reason to know that the complainant is mentally impaired, mentally incapacitated, or physically helpless;

(e) the complainant is at least 16 but less than 18 years of age and the actor is more than 48 months older than the complainant and in a position of authority over the complainant. Neither mistake as to the complainant's age nor consent to the act by the complainant is a defense;

(f) the actor has a significant relationship to the complainant and the complainant was at least 16 but under 18 years of age at the time of the sexual penetration. Neither mistake as to the complainant's age nor consent to the act by the complainant is a defense;

(g) the actor has a significant relationship to the complainant, the complainant was at least 16 but under 18 years of age at the time of the sexual penetration, and:

(i) the actor or an accomplice used force or coercion to accomplish the penetration;

(ii) the complainant suffered personal injury; or

(iii) the sexual abuse involved multiple acts committed over an extended period of time.

Neither mistake as to the complainant's age nor consent to the act by the complainant is a defense;

(h) the actor is a psychotherapist and the complainant is a patient of the psychotherapist and the sexual penetration

occurred:

(i) during the psychotherapy session; or

(ii) outside the psychotherapy session if an ongoing psychotherapist-patient relationship exists.

Consent by the complainant is not a defense;

(i) the actor is a psychotherapist and the complainant is a former patient of the psychotherapist and the former patient is emotionally dependent upon the psychotherapist;

(j) the actor is a psychotherapist and the complainant is a patient or former patient and the sexual penetration occurred by means of therapeutic deception. Consent by the complainant is not a defense;

(k) the actor accomplishes the sexual penetration by means of deception or false representation that the penetration is for a bona fide medical purpose. Consent by the complainant is not a defense;

(l) the actor is or purports to be a member of the clergy, the complainant is not married to the actor, and:

(i) the sexual penetration occurred during the course of a meeting in which the complainant sought or received religious or spiritual advice, aid, or comfort from the actor in private; or

(ii) the sexual penetration occurred during a period of time in which the complainant was meeting on an ongoing basis with the actor to seek or receive religious or spiritual advice, aid, or comfort in private. Consent by the complainant is not a defense;

(m) the actor is an employee, independent contractor, or volunteer of a state, county, city, or privately operated adult or juvenile correctional system, including, but not limited to, jails, prisons, detention centers, or work release facilities, and the complainant is a resident of a facility or under supervision of the correctional system. Consent by the complainant is not a defense; or

(n) the actor provides or is an agent of an entity that provides special transportation service, the complainant used the special transportation service, and the sexual penetration occurred during or immediately before or after the actor transported the complainant. Consent by the complainant is not a defense.

**Subd. 2. Penalty.** A person convicted under subdivision 1 may be sentenced to imprisonment for not more than 15 years or to a payment of a fine of not more than \$30,000, or both.

**Subd. 3. Stay.** Except when imprisonment is required under section 609.109, if a person is convicted under subdivision 1, clause (f), the court may stay imposition or execution of the sentence if it finds that:

(a) a stay is in the best interest of the complainant or the family unit; and

(b) a professional assessment indicates that the offender has been accepted by and can respond to a treatment program.

If the court stays imposition or execution of sentence, it shall include the following as conditions of probation:

(1) incarceration in a local jail or workhouse;

a requirement that the offender complete a treatment program; and

(3) a requirement that the offender have no unsupervised contact with the complainant until the offender has successfully completed the treatment program unless approved by the treatment program and the supervising correctional agent.

HIST: 1975 c 374 s 5; 1979 c 258 s 13; 1983 c 204 s 3; 1984 c 588 s 7; 1984 c 628 art 3 s 11; 1985 c 24 s 7; 1985 c 286 s 17; 1985 c 297 s 6; 1986 c 351 s 8; 1986 c 444; 1Sp1986 c 3 art 1 s 80; 1987 c 94 s 1; 1989 c 290 art 4 s 14; 1992 c 571 art 1 s 16,17; 1993 c 326 art 4 s 20; 1994 c 636 art 2 s 35; 1998 c 367 art 3 s 9; art 6 s 15; 2000 c 437 s 12; 2001 c 210 s 22; 2002 c 381 s 3

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Minnesota Statutes 2004, Table of Chapters

Table of contents for Chapter 609

609.345 Criminal sexual conduct in the fourth degree.

Division 1. Crime defined. A person who engages in sexual contact with another person is guilty of criminal sexual conduct in the fourth degree if any of the following circumstances exists:

(a) the complainant is under 13 years of age and the actor is no more than 36 months older than the complainant. Neither mistake as to the complainant's age or consent to the act by the complainant is a defense. In a prosecution under this clause, the state is not required to prove that the sexual contact was coerced;

(b) the complainant is at least 13 but less than 16 years of age and the actor is more than 48 months older than the complainant or in a position of authority over the complainant. Consent by the complainant to the act is not a defense. In any such case, it shall be an affirmative defense which must be proved by a preponderance of the evidence that the actor believes the complainant to be 16 years of age or older;

(c) the actor uses force or coercion to accomplish the sexual contact;

(d) the actor knows or has reason to know that the complainant is mentally impaired, mentally incapacitated, or physically helpless;

(e) the complainant is at least 16 but less than 18 years of age and the actor is more than 48 months older than the complainant and in a position of authority over the complainant. Neither mistake as to the complainant's age nor consent to the act by the complainant is a defense;

(f) the actor has a significant relationship to the complainant and the complainant was at least 16 but under 18 years of age at the time of the sexual contact. Neither mistake as to the complainant's age nor consent to the act by the complainant is a defense;

(g) the actor has a significant relationship to the complainant, the complainant was at least 16 but under 18 years of age at the time of the sexual contact, and:

(i) the actor or an accomplice used force or coercion to accomplish the contact;

(ii) the complainant suffered personal injury; or

(iii) the sexual abuse involved multiple acts committed over an extended period of time.

Neither mistake as to the complainant's age nor consent to the act by the complainant is a defense;

(h) the actor is a psychotherapist and the complainant is a patient of the psychotherapist and the sexual contact occurred:

(i) during the psychotherapy session; or

(ii) outside the psychotherapy session if an ongoing psychotherapist-patient relationship exists. Consent by the complainant is not a defense;

(i) the actor is a psychotherapist and the complainant is a former patient of the psychotherapist and the former patient is emotionally dependent upon the psychotherapist;

(j) the actor is a psychotherapist and the complainant is a patient or former patient and the sexual contact occurred by means of therapeutic deception. Consent by the complainant is not a defense;

(k) the actor accomplishes the sexual contact by means of deception or false representation that the contact is for a bona fide medical purpose. Consent by the complainant is not a defense;

(l) the actor is or purports to be a member of the clergy, the complainant is not married to the actor, and:

(i) the sexual contact occurred during the course of a meeting in which the complainant sought or received religious or spiritual advice, aid, or comfort from the actor in private; or

(ii) the sexual contact occurred during a period of time in which the complainant was meeting on an ongoing basis with the actor to seek or receive religious or spiritual advice, aid, or comfort in private. Consent by the complainant is not a defense;

(m) the actor is an employee, independent contractor, or volunteer of a state, county, city, or privately operated adult or juvenile correctional system, including, but not limited to, jails, prisons, detention centers, or work release facilities, and the complainant is a resident of a facility or under supervision of the correctional system. Consent by the complainant is not a defense; or

(n) the actor provides or is an agent of an entity that provides special transportation service, the complainant used the special transportation service, the complainant is not married to the actor, and the sexual contact occurred during or immediately before or after the actor transported the complainant. Consent by the complainant is not a defense.

**Subd. 2. Penalty.** A person convicted under subdivision 1 may be sentenced to imprisonment for not more than ten years or to a payment of a fine of not more than \$20,000, or both.

**Subd. 3. Stay.** Except when imprisonment is required under section 609.109, if a person is convicted under subdivision 1, clause (f), the court may stay imposition or execution of the sentence if it finds that:

(a) a stay is in the best interest of the complainant or the family unit; and

(b) a professional assessment indicates that the offender has been accepted by and can respond to a treatment program.

If the court stays imposition or execution of sentence, it shall include the following as conditions of probation:

(1) incarceration in a local jail or workhouse;

(2) a requirement that the offender complete a treatment program; and

(3) a requirement that the offender have no unsupervised contact with the complainant until the offender has successfully completed the treatment program unless approved by the treatment program and the supervising correctional agent.

HIST: 1975 c 374 s 6; 1976 c 124 s 9; 1979 c 258 s 14; 1981 c 51 s 4; 1983 c 204 s 4; 1984 c 588 s 8; 1984 c 628 art 3 s 11; 1985 c 24 s 8; 1985 c 286 s 18; 1985 c 297 s 7; 1986 c 351 s 9; 1986 c 444; 1Sp1986 c 3 art 1 s 81; 1987 c 94 s 2; 1989 c 290 art 4 s 15; 1992 c 571 art 1 s 18,19; 1993 c 326 art 4 s 21; 1994 c 636 art 2 s 36; 1998 c 367 art 3 s 10; art 6 s 15; 2000 c 437 s 13; 2001 c 210 s 23; 2002 c 381 s 4

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Minnesota Statutes 2004, Table of ChaptersTable of contents for Chapter 609**609.3451 Criminal sexual conduct in the fifth degree.**

Subdivision 1. **Crime defined.** A person is guilty of criminal sexual conduct in the fifth degree:

- (1) if the person engages in nonconsensual sexual contact;  
or
- (2) the person engages in masturbation or lewd exhibition of the genitals in the presence of a minor under the age of 16, knowing or having reason to know the minor is present.

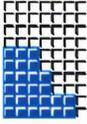
For purposes of this section, "sexual contact" has the meaning given in section 609.341, subdivision 11, paragraph (a), clauses (i) and (iv), but does not include the intentional touching of the clothing covering the immediate area of the buttocks. Sexual contact also includes the intentional removal or attempted removal of clothing covering the complainant's intimate parts or undergarments, and the nonconsensual touching by the complainant of the actor's intimate parts, effected by the actor, if the action is performed with sexual or aggressive intent.

Subd. 2. **Penalty.** A person convicted under subdivision 1 may be sentenced to imprisonment for not more than one year or to a payment of a fine of not more than \$3,000, or both.

Subd. 3. **Felony.** A person is guilty of a felony and may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than \$10,000, or both, if the person violates subdivision 1, clause (2), after having been previously convicted of or adjudicated delinquent for violating subdivision 1, clause (2); section 617.23, subdivision 2, clause (1); or a statute from another state in conformity with subdivision 1, clause (2), or section 617.23, subdivision 2, clause (1).

HIST: 1988 c 529 s 2; 1990 c 492 s 1; 1995 c 226 art 2 s 19; 1996 c 408 art 3 s 26,27; 1998 c 367 art 3 s 11

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## Minnesota Sentencing Guidelines Commission

Presented to  
Joint Crime Prevention and Public Safety Committee  
and  
Public Safety Budget Division

March 29, 2005

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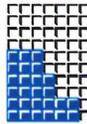
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## 2003 Sex Offender Sentencing Trends in Minnesota

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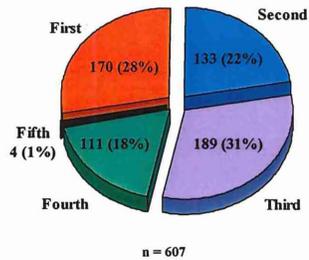
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## Sex Offenders Sentenced by Degree in 2003



Source: MSGC Monitoring Data

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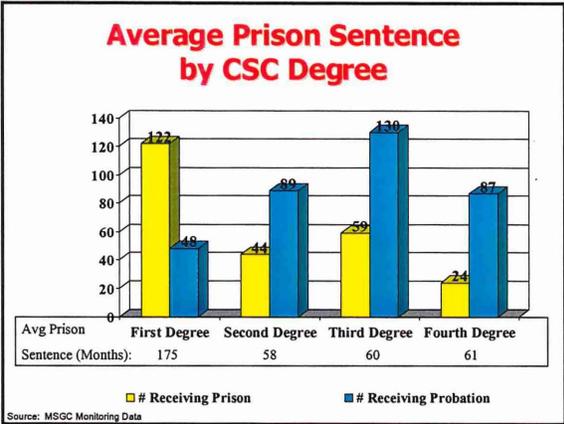
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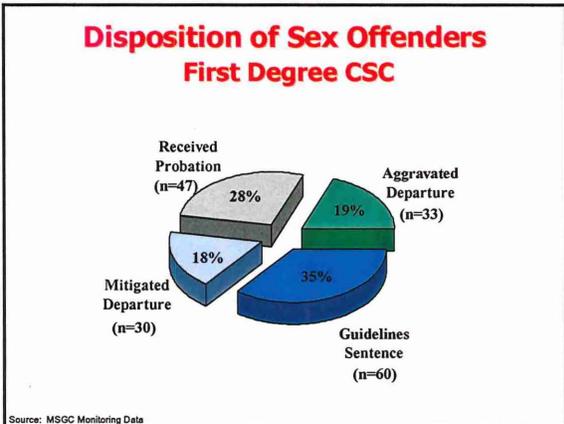
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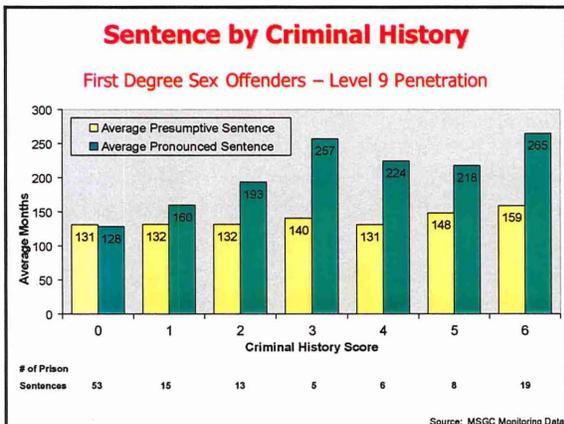
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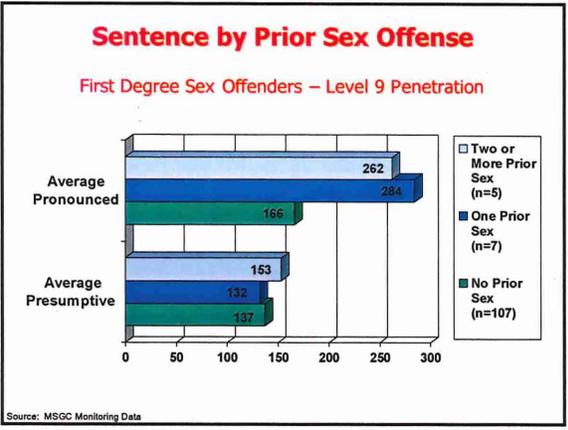
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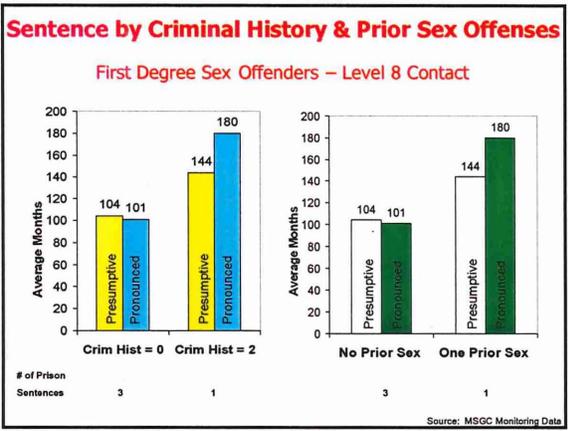
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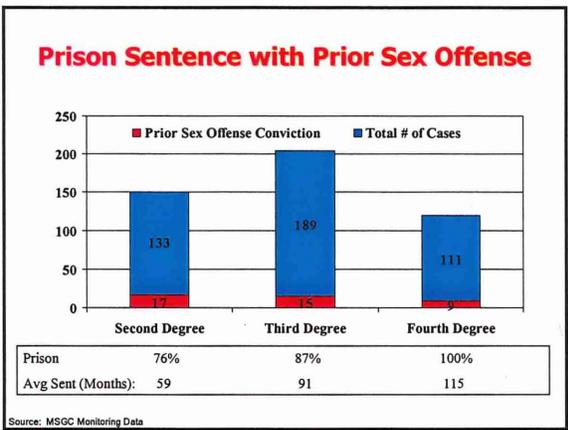
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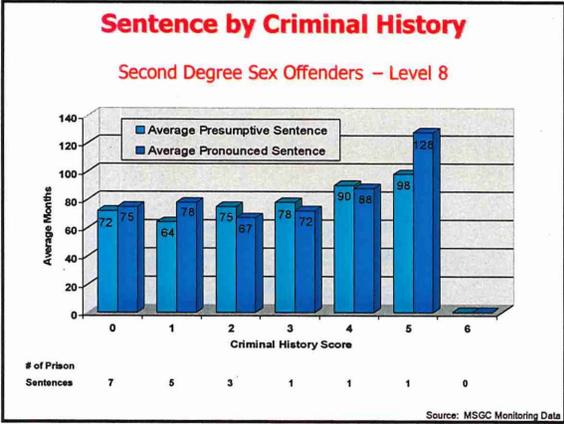
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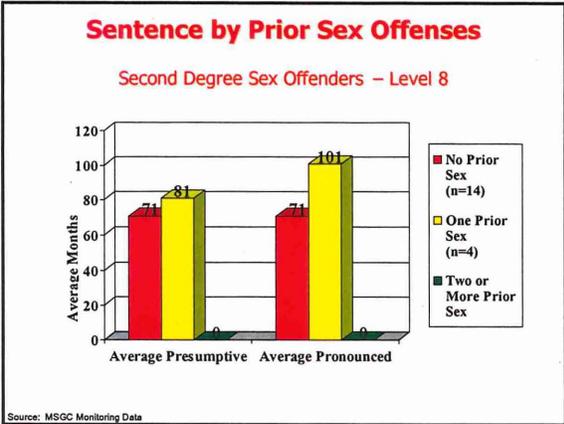
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### Sentence by Criminal History & Prior Sex Offenses

| Degree & Severity Level | Average Presumptive & Pronounced Sentence | Criminal History Score |    |    |    |     |     | Prior Sex Offense |      |     |      |
|-------------------------|---|------------------------|----|----|----|-----|-----|-------------------|------|-----|------|
|                         |   | 0                      | 1  | 2  | 3  | 4   | 5   | 6                 | None | One | Two+ |
| Second Deg (Sev Lev 6)  | Presumptive                               | 21                     | 28 | 36 | 39 | 42  | 51  | 60                | 29   | 38  | 60   |
|                         | Pronounced                                | 53                     | 41 | 35 | 38 | 33  | 33  | 60                | 44   | 38  | 60   |
| Third Deg (Sev Lev 8)   | Presumptive                               | 48                     | 58 | 68 | 72 | 78  | 98  | 108               | 58   | 87  | 98   |
|                         | Pronounced                                | 45                     | 59 | 91 | 93 | 104 | 122 | 162               | 60   | 109 | 180  |
| Third Deg (Sev Lev 5)   | Presumptive                               | 18                     | 23 | 28 | 34 | 38  | 36  | 36                | 32   | 37  | 38   |
|                         | Pronounced                                | 31                     | 23 | 28 | 31 | 35  | 37  | 32                | 38   | 31  | -    |
| Fourth Deg (Sev Lev 6)  | Presumptive                               | 21                     | -  | -  | 36 | 45  | 51  | 51                | 38   | 35  | 50   |
|                         | Pronounced                                | 21                     | -  | -  | 34 | 41  | 102 | 252               | 36   | 31  | 181  |
| Fourth Deg (Sev Lev 4)  | Presumptive                               | 12                     | -  | 18 | 21 | 28  | 27  | 36                | 23   | 36  | -    |
|                         | Pronounced                                | 12                     | -  | 36 | 21 | 24  | 27  | 33                | 24   | 36  | -    |

Source: MSGC Monitoring Data

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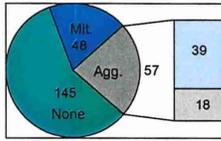
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### Durational Departures for Sex Offenses 2003



- No Departure
- Mitigated
- Aggravated (No True Prior Sex)
- Aggravated (True Prior Sex)

- Thirteen aggravated durational departures also included consecutive sentences.
- Six aggravated durational departures were for “patterned sex offenders” under M.S. §609.108.

Source: MSGC Monitoring Data

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## IV. SENTENCING GUIDELINES GRID

Presumptive Sentence Lengths in Months

Italicized numbers within the grid denote the range within which a judge may sentence without the sentence being deemed a departure. Offenders with nonimprisonment felony sentences are subject to jail time according to law.

| SEVERITY LEVEL OF<br>CONVICTION OFFENSE<br>(Common offenses listed in italics)   |      | CRIMINAL HISTORY SCORE |                 |                 |                |                |                |                |
|--|------|------------------------|-----------------|-----------------|----------------|----------------|----------------|----------------|
|  |      | 0                      | 1               | 2               | 3              | 4              | 5              | 6 or<br>more   |
| <i>Murder, 2nd Degree</i><br>(intentional murder; drive-by-<br>shootings)  | XI   | 306<br>299-313         | 326<br>319-333  | 346<br>339-353  | 366<br>359-373 | 386<br>379-393 | 406<br>399-413 | 426<br>419-433 |
| <i>Murder, 3rd Degree</i><br><i>Murder, 2nd Degree</i><br>(unintentional murder)   | X    | 150<br>144-156         | 165<br>159-171  | 180<br>174-186  | 195<br>189-201 | 210<br>204-216 | 225<br>219-231 | 240<br>234-246 |
| <i>Criminal Sexual Conduct,</i><br><i>1st Degree</i> <sup>2</sup><br><i>Assault, 1st Degree</i>  | IX   | 86<br>81-91            | 98<br>93-103    | 110<br>105-115  | 122<br>117-127 | 134<br>129-139 | 146<br>141-151 | 158<br>153-163 |
| <i>Aggravated Robbery 1st Degree</i><br><i>Criminal Sexual Conduct,</i><br><i>2<sup>nd</sup> Degree (c),(d),(e),(f),(h)</i> <sup>2</sup> | VIII | 48<br>44-52            | 58<br>54-62     | 68<br>64-72     | 78<br>74-82    | 88<br>84-92    | 98<br>94-102   | 108<br>104-112 |
| <i>Felony DWI</i>  | VII  | 36                     | 42              | 48              | 54<br>51-57    | 60<br>57-63    | 66<br>63-69    | 72<br>69-75    |
| <i>Criminal Sexual Conduct,</i><br><i>2nd Degree (a) &amp; (b)</i>   | VI   | 21                     | 27              | 33              | 39<br>37-41    | 45<br>43-47    | 51<br>49-53    | 57<br>55-59    |
| <i>Residential Burglary</i><br><i>Simple Robbery</i>   | V    | 18                     | 23              | 28              | 33<br>31-35    | 38<br>36-40    | 43<br>41-45    | 48<br>46-50    |
| <i>Nonresidential Burglary</i>   | IV   | 12 <sup>1</sup>        | 15              | 18              | 21             | 24<br>23-25    | 27<br>26-28    | 30<br>29-31    |
| <i>Theft Crimes (Over \$2,500)</i>   | III  | 12 <sup>1</sup>        | 13              | 15              | 17             | 19<br>18-20    | 21<br>20-22    | 23<br>22-24    |
| <i>Theft Crimes (\$2,500 or less)</i><br><i>Check Forgery (\$200-\$2,500)</i>  | II   | 12 <sup>1</sup>        | 12 <sup>1</sup> | 13              | 15             | 17             | 19             | 21<br>20-22    |
| <i>Sale of Simulated</i><br><i>Controlled Substance</i>  | I    | 12 <sup>1</sup>        | 12 <sup>1</sup> | 12 <sup>1</sup> | 13             | 15             | 17             | 19<br>18-20    |



Presumptive commitment to state imprisonment. First Degree Murder is excluded from the guidelines by law and continues to have a mandatory life sentence. See section II.E. Mandatory Sentences for policy regarding those sentences controlled by law, including minimum periods of supervision for sex offenders released from prison.



Presumptive stayed sentence; at the discretion of the judge, up to a year in jail and/or other non-jail sanctions can be imposed as conditions of probation. However, certain offenses in this section of the grid always carry a presumptive commitment to state prison. These offenses include Third Degree Controlled Substance Crimes when the offender has a prior felony drug conviction, Burglary of an Occupied Dwelling when the offender has a prior felony burglary conviction, second and subsequent Criminal Sexual Conduct offenses and offenses carrying a mandatory minimum prison term due to the use of a dangerous weapon (e.g., Second Degree Assault). See sections II.C. Presumptive Sentence and II.E. Mandatory Sentences.

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

<sup>2</sup> Pursuant to M.S. § 609.342, subd. 2 and 609.343, subd. 2, the presumptive sentence for Criminal Sexual Conduct in the First Degree is a minimum of 144 months and the presumptive sentence for Criminal Sexual Conduct in the Second Degree – clauses c, d, e, f, and h is a minimum of 90 months (see II.C. Presumptive Sentence and II.G. Convictions for Attempts, Conspiracies, and Other Sentence Modifiers).

**Number of Offenders Sentenced for Criminal Sexual Conduct Offenses:  
2000-2003 by Statutory Provision**

**Table 11**

| Offense<br>Severity Level<br>Presumptive<br>Sentence (no<br>Crim. History) | Statute Number                             | Offense   | # Offenders Sentenced |      |      |      |
|--|--|---|-----------------------|------|------|------|
|  |  |   | 2000                  | 2001 | 2002 | 2003 |
| First Degree<br>Penetration<br><br>Severity Level 9<br>144 Months          | 609.342 subd. 1(a)                         | Victim under 13, Actor 3 years older  | 43                    | 56   | 58   | 65   |
|  | 609.342 subd. 1(b)                         | Victim 13-16, Actor 4 years older & Pos. Authority  | 9                     | 5    | 14   | 9    |
|  | 609.342 subd. 1(c)                         | Fear Great Bodily Harm  | 9                     | 9    | 8    | 21   |
|  | 609.342 subd. 1(d)                         | Dangerous Weapon  | 5                     | 4    | 2    | 5    |
|  | 609.342 subd. 1(e)(i)                      | Personal Injury and Uses Force or Coercion  | 9                     | 8    | 8    | 13   |
|  | 609.342 subd. 1(e)(ii)                     | Personal Injury and Victim Impaired/Incapacitated   | 0                     | 4    | 0    | 2    |
|  | 609.342 subd. 1(f)(i)                      | Accomplice and use Force or Coercion  | 0                     | 4    | 4    | 1    |
|  | 609.342 subd. 1(f)(ii)                     | Accomplice and Dangerous Weapon   | 0                     | 0    | 0    | 0    |
|  | 609.342 subd. 1(g)                         | Victim under 16, Significant Relationship   | 16                    | 25   | 22   | 34   |
|  | 609.342 subd. 1(h)(i)                      | Under 16, Sig. Relation. and Force or Coercion  | 0                     | 0    | 0    | 0    |
|  | 609.342 subd. 1(h)(ii)                     | Under 16, Sig. Relation. and Personal Injury  | 0                     | 2    | 0    | 1    |
| 609.342 subd. 1(h)(iii)  | Under 16, Sig. Relation. and Multiple Acts | 4   | 12                    | 8    | 14   |      |
| First Degree<br>Contact<br>Severity Level 8<br>144 Months                  | 609.342 subd. 1(a)                         | Criminal Sexual Conduct 1 – Contact,<br>Victim under 13, genital to genital contact as defined in<br>609.341 subd. 11 (c) | 10                    | 9    | 14   | 5    |
| Second Degree<br>Contact<br>Severity Level 6<br>21 Months<br>(Stayed)      | 609.343 subd. 1(a)                         | Contact Victim under 13, Actor 3 years older  | 97                    | 82   | 89   | 74   |
|  | 609.343 subd. 1(b)                         | Victim 13-16, Actor 4 years older & Pos. Authority  | 9                     | 5    | 12   | 16   |
|  | 609.343 subd. 1(g)                         | Victim under 16, Significant Relationship   | 30                    | 22   | 23   | 14   |
| Second Degree<br>Contact<br><br>Severity Level 8<br>90 Months              | 609.343 subd. 1(c)                         | Fear Great Bodily Harm  | 3                     | 2    | 0    | 2    |
|  | 609.343 subd. 1(d)                         | Dangerous Weapon  | 0                     | 1    | 2    | 0    |
|  | 609.343 subd. 1(e)(i)                      | Personal Injury and Uses Force or Coercion  | 0                     | 4    | 4    | 3    |
|  | 609.343 subd. 1(e)(ii)                     | Personal Injury and Victim Impaired/Incapacitated   | 0                     | 0    | 0    | 0    |
|  | 609.343 subd. 1(f)(i)                      | Accomplice and use Force or Coercion  | 0                     | 1    | 0    | 0    |
|  | 609.343 subd. 1(f)(ii)                     | Accomplice and Dangerous Weapon   | 0                     | 0    | 0    | 0    |
|  | 609.343 subd. 1(h)(i)                      | Under 16, Sig. Relation. and Force or Coercion  | 3                     | 1    | 0    | 4    |
|  | 609.343 subd. 1(h)(ii)                     | Under 16, Sig. Relation. and Personal Injury  | 0                     | 0    | 1    | 0    |
|  | 609.343 subd. 1(h)(iii)                    | Under 16, Sig. Relation. and Multiple Acts  | 15                    | 10   | 17   | 20   |

| Offense Severity Level Presumptive Sentence (no Crim. History) | Statute Number          | Offense  | # Offenders Sentenced |      |      |      |
|--|-------------------------|--|-----------------------|------|------|------|
|  |                         |  | 2000                  | 2001 | 2002 | 2003 |
| Third Degree Penetration Unranked                              | 609.344 subd. 1(a)      | Criminal Sexual Conduct 3 – Penetration<br>Victim under 13, perpetrator must be a juvenile | 0                     | 0    | 0    | 0    |
| Third Degree Penetration Severity Level 5 18 Months (Stayed)   | 609.344 subd. 1(b)      | Victim 13-16, Actor 2 years older  | 119                   | 115  | 138  | 128  |
|  | 609.344 subd. 1(e)      | Victim 16-18, Actor 4 years older & Pos. Authority   | 6                     | 2    | 3    | 2    |
|  | 609.344 subd. 1(f)      | Victim 16-18, Significant Relationship   | 5                     | 4    | 3    | 2    |
| Third Degree Penetration Severity Level 8 48 Months            | 609.344 subd. 1(c)      | Force or Coercion  | 24                    | 26   | 18   | 32   |
|  | 609.344 subd. 1(d)      | Victim Mentally Impaired\Incapacitated   | 14                    | 13   | 13   | 21   |
|  | 609.344 subd. 1(g)(i)   | Sig. Relation. and Force or Coercion   | 0                     | 0    | 0    | 0    |
|  | 609.344 subd. 1(g)(ii)  | Sig. Relation. and Personal Injury   | 0                     | 0    | 0    | 0    |
|  | 609.344 subd. 1(g)(iii) | Sig. Relation. and Multiple Acts over Time   | 3                     | 1    | 1    | 3    |
|  | 609.344 subd. 1(h)      | Psychotherapist - Patient  | 0                     | 0    | 0    | 0    |
|  | 609.344 subd. 1(i)      | Psychotherapist-Former Patient Emot. Dependent   | 0                     | 0    | 0    | 0    |
|  | 609.344 subd. 1(j)      | Psychotherapist & Therapeutic Deception  | 0                     | 0    | 0    | 0    |
|  | 609.344 subd. 1(k)      | Deception/False Rep. for Medical Purpose   | 0                     | 0    | 0    | 0    |
|  | 609.344 subd. 1(l)      | Clergy   | 0                     | 1    | 0    | 0    |
| Fourth Degree Contact Unranked                                 | 609.344 subd. 1(m)      | Correctional Employee  | 0                     | 0    | 1    | 1    |
|  | 609.344 subd. 1(n)      | Special Transportation Service   | 0                     | 0    | 0    | 0    |
| Fourth Degree Contact Unranked                                 | 609.345 subd. 1(a)      | Criminal Sexual Conduct 4 - Contact<br>Victim under 13, perpetrator must be a juvenile     | 0                     | 0    | 0    | 0    |
| Fourth Degree Contact Severity Level 4 1Yr, 1Day (Stayed)      | 609.345 subd. 1(b)      | Victim 13-16, Actor 4 years older or Pos. Authority  | 54                    | 33   | 45   | 53   |
|  | 609.345 subd. 1(e)      | Victim 16-18, Actor 4 years older & Pos. Authority   | 5                     | 2    | 5    | 2    |
|  | 609.345 subd. 1(f)      | Victim 16-18, Significant Relationship   | 4                     | 1    | 2    | 3    |

| Offense<br>Severity Level<br>Presumptive<br>Sentence (no<br>Crim. History) | Statute Number          | Offense   | # Offenders Sentenced |      |      |      |
|--|-------------------------|---|-----------------------|------|------|------|
|  |                         |   | 2000                  | 2001 | 2002 | 2003 |
| Fourth Degree<br>Contact<br><br>Severity Level 6<br>21 Months<br>(Stayed)  | 609.345 subd. 1(c)      | Force or Coercion   | 18                    | 20   | 19   | 26   |
|  | 609.345 subd. 1(d)      | Victim Mentally Impaired\Incapacitated  | 20                    | 20   | 19   | 26   |
|  | 609.345 subd. 1(g)(i)   | Sig. Relation. and Force or Coercion  | 0                     | 0    | 2    | 1    |
|  | 609.345 subd. 1(g)(ii)  | Sig. Relation. and Personal Injury  | 0                     | 0    | 1    | 0    |
|  | 609.345 subd. 1(g)(iii) | Sig. Relation. and Multiple Acts over Time  | 2                     | 3    | 1    | 0    |
|  | 609.345 subd. 1(h)      | Psychotherapist - Patient   | 0                     | 0    | 0    | 0    |
|  | 609.345 subd. 1(i)      | Psychotherapist-Former Patient Emot. Dependent  | 0                     | 0    | 0    | 0    |
|  | 609.345 subd. 1(j)      | Psychotherapist & Therapeutic Deception   | 0                     | 0    | 0    | 0    |
|  | 609.345 subd. 1(k)      | Deception/False Rep. for Medical Purpose  | 0                     | 0    | 0    | 0    |
|  | 609.345 subd. 1(l)      | Clergy  | 1                     | 0    | 0    | 0    |
|  | 609.345 subd. 1(m)      | Correctional Employee   | 0                     | 0    | 0    | 0    |
|  | 609.345 subd. 1(n)      | Special Transportation Service  | 0                     | 0    | 0    | 0    |
| Fifth Degree<br>Contact<br>Severity Level 4<br>1Yr, 1Day<br>(Stayed)       | 609.3451 subd. 3        | Criminal Sexual Conduct 5<br>Violate 609.3451 Subd. 1, clause (2) after previous conviction | 4                     | 4    | 0    | 4    |

Minnesota  
**Department of Corrections**

**Sex Offender Statistics  
Crime Prevention  
March 29, 2005**

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Daniel Storkamp, Director  
Information and Technology



**Minnesota Department of Corrections  
Sex Offender Challenges**

- Flat Arrests/Apprehensions
- Steady New Commitment Admissions
- Increasing Prison Admissions
- Growing Prison Populations
- Greater Number of Prison Releases
- More SPP/SDP Department Reviews

## Minnesota Arrests/Apprehensions Sex Offenses

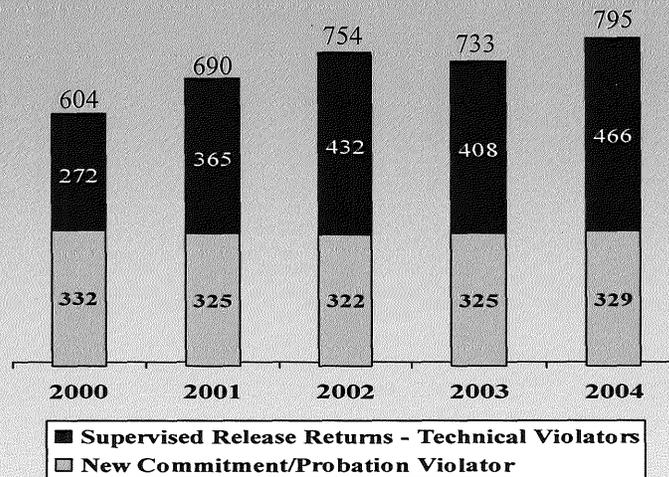
|                    | <u>2002</u>  | <u>2003</u>  |
|--------------------|--------------|--------------|
| Rape <sup>1</sup>  | 814          | 815          |
| Other Sex Offenses | <u>1,364</u> | <u>1,334</u> |
| <b>Total</b>       | <b>2,178</b> | <b>2,149</b> |

<sup>1</sup> The Crime Information Report defines rape as the carnal knowledge of a female using force and committed against her will, including attempts. Minnesota also include male victims in the rape statistics. Both these definitions differ from the definition in Minnesota statutes, which refers to 1<sup>st</sup> through 5<sup>th</sup> degrees of criminal sexual conduct.

Data Source: Bureau of Criminal Apprehension Crime Information Report

3/05

## Minnesota Department of Corrections Sex Offenders - Governing Offense Prison Admissions

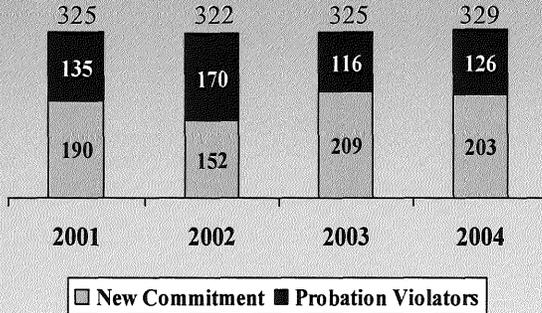


New commitments include both new court commitments and probation violators admitted to prison.

Data Source: Department of Corrections profile card  
Prepared by: Minnesota Department of Corrections

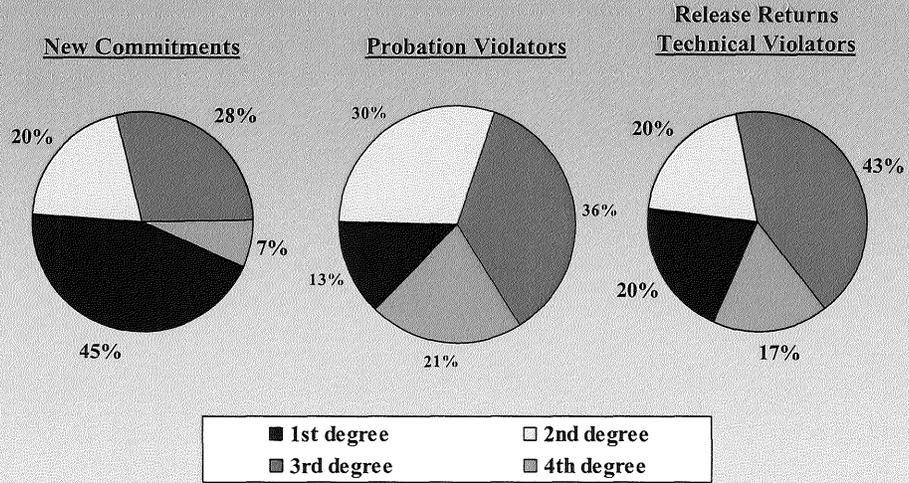
3/05

## Minnesota Department of Corrections Sex Offenders - Governing Offense 2004 Prison Admissions



New commitments include both new court commitments and probation violators admitted to prison.  
 Data Source: Department of Corrections profile card  
 Prepared by: Minnesota Department of Corrections 3/05

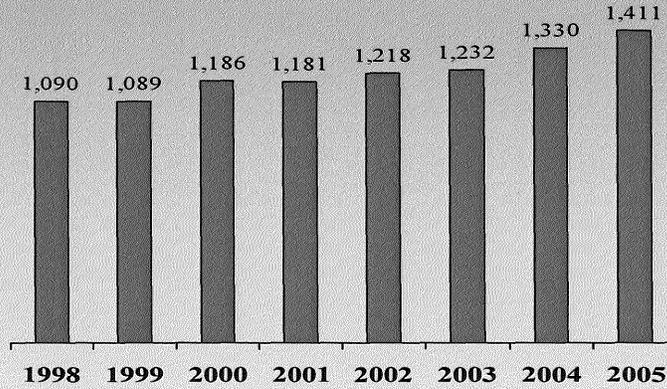
## Minnesota Department of Corrections Sex Offenders - Governing Offense 2004 Prison Admissions



Data Source: Department of Corrections profile card  
 Prepared by: Minnesota Department of Corrections 3/05

## Minnesota Prison Population Sex Offenders- Governing Offense

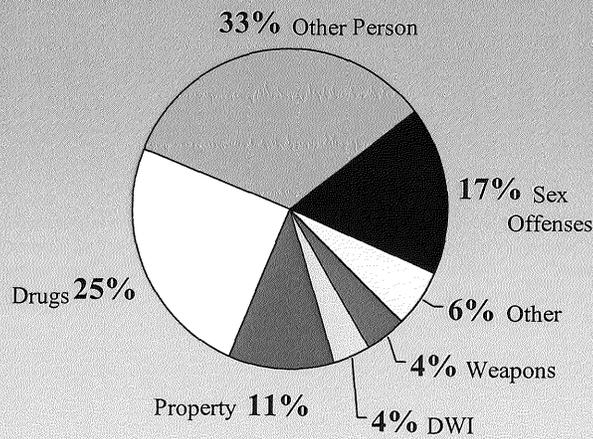
30 percent increase from 1998 to 2005



Data Source: Department of Corrections profile card  
Prepared by: Minnesota Department of Corrections

3/05

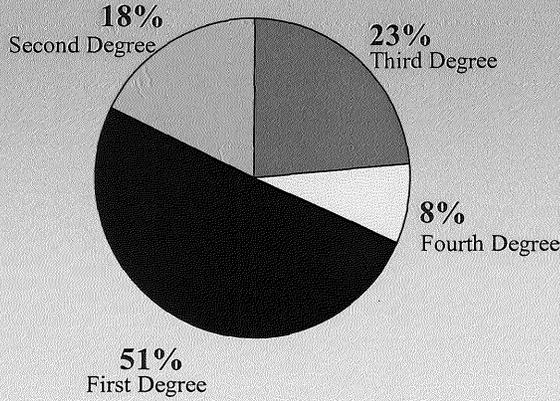
## Minnesota Department of Corrections Adult Inmates January 1, 2005 Governing Offenses Profile



Data Source: Department of Corrections profile card  
Prepared by: Minnesota Department of Corrections

3/05

**Minnesota Department of Corrections**  
**Adult Inmates January 1, 2005**  
**Sex Offender Governing Offense Profile**



Data Source: Department of Corrections profile card  
 Prepared by: Minnesota Department of Corrections

3/05

**Minnesota Department of Corrections**  
**Adult Inmate January 1, 2005**  
**Sex Offender Governing Offense - Victim Profile**

Victim Relationship

|                     |     |
|---------------------|-----|
| Spouse/Cohab. Adult | 4%  |
| Parent/Step Parent  | 16% |
| Other Family Member | 14% |
| Acquaintance        | 47% |
| Stranger            | 13% |
| Person in Authority | 6%  |

Victim Age

|                 |     |
|-----------------|-----|
| Under 13        | 44% |
| 13-17 Years old | 35% |
| 18 and Older    | 21% |

Victim Gender

|         |     |
|---------|-----|
| Females | 88% |
| Males   | 12% |

Data Source: Department of Corrections profile card  
 Prepared by: Minnesota Department of Corrections

3/05

**Minnesota Prison Population  
Sex Offenders  
January 1, 2005**

|   |                    |
|---|--------------------|
|   | <u><b>2005</b></u> |
| Governing sex offense                     | 1,411              |
| Other offenses with a sex offense history | <u>1,001</u>       |
| Total                                     | 2,412              |

Note: Other offenses can include those designated as predatory offenders and those with a sex offense charged and/or convicted in their prior history.

Data Source: Department of Corrections profile card  
Prepared by: Minnesota Department of Corrections

3/05

**Minnesota Prison Population  
Sex Offenders  
January 1, 2005**

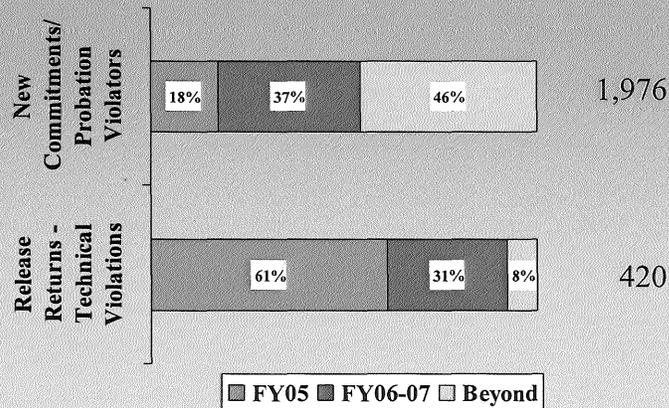
|                        |                  |                                |
|------------------------|------------------|--------------------------------|
|                        | <u>Governing</u> | <u>Other Sex<br/>Offenders</u> |
| Percent Female         | 1%               | 2%                             |
| Average Age            | 37.0             | 35.4                           |
| 50 & Over              | 196              | 101                            |
| Percent 7-Metro County | 58%              | 50%                            |
| Percent Prior Felonies | 44%              | 64%                            |

Other sex offenders includes those offenders who have a prior sex offense conviction or who are required to register as a predatory offender.

Data Source: Department of Corrections profile card  
Prepared by: Minnesota Department of Corrections

3/05

**Minnesota Prison Population  
Sex Offenders – Anticipated Releases  
January 1, 2005 Population**



Data Source: Department of Corrections profile card  
Prepared by: Minnesota Department of Corrections

3/05

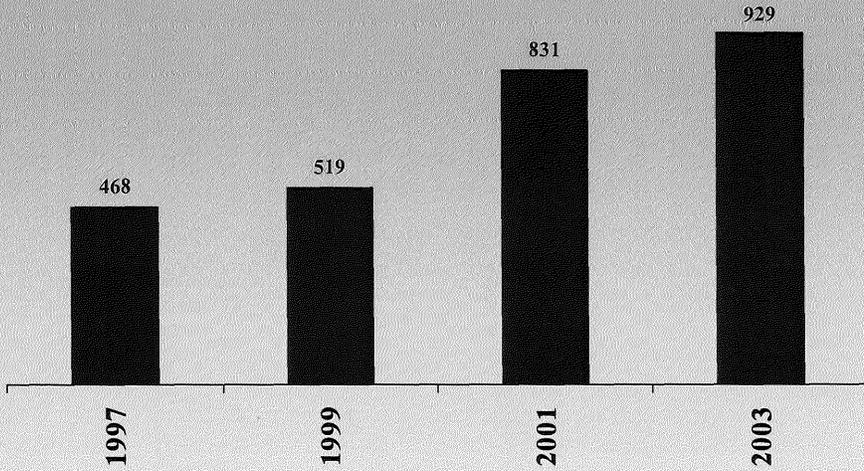
**Minnesota Prison Population  
Sex Offenders – Anticipated Releases  
January 1, 2005 Population**

|                  | <u>Admitted<br/>Before 1993</u> |
|------------------|---------------------------------|
| Life Sentences   | 44 (54%)                        |
| FY05 Releases    | 8 (10%)                         |
| FY06-07 Releases | 18 (22%)                        |
| Future Releases  | <u>11 (14%)</u>                 |
| <b>Total</b>     | <b>81 (100%)</b>                |

Data Source: Department of Corrections profile card  
Prepared by: Minnesota Department of Corrections

3/05

## Minnesota Department of Corrections Predatory Offender Releases

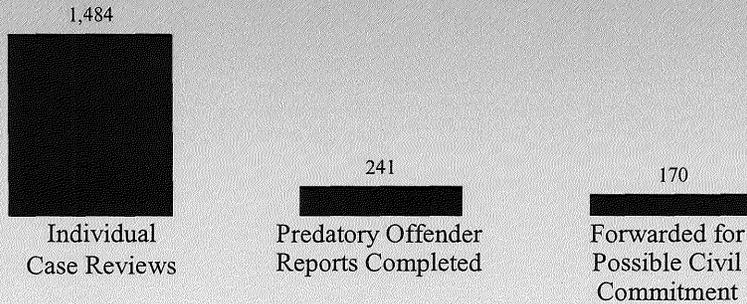


Data Source: Department of Corrections profile card  
Prepared by: Minnesota Department of Corrections

3/05

## Minnesota Department of Corrections 2004 SPP/SDP\* Reviews

During 2004 all offenders in prison, admitted to prison,  
and all level three offenders had a SPP/SDP review,  
with 1,484 having a more detailed case file review.



\* SPP/SDP – Sexual Psychopathic Personality/Sexually Dangerous Person

Data Source: Department of Corrections profile card  
Prepared by: Minnesota Department of Corrections

3/05

**Minnesota  
Department of Corrections**

**Sex Offender Statistics  
Crime Prevention  
March 29, 2005**

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**QUESTIONS?**



**Criminal Sexual Conduct Penalties**  
 (see also sheet on Mandatory Sentences)

| Crime                                 | Statutory Maximum      | Presumptive Guideline Sentence<br>(at zero history points)   |
|---------------------------------------|------------------------|--|
| First degree criminal sexual conduct  | 30 years/\$40,000 fine | 86 month presumptive executed sentence; 48 month presumptive executed sentence for sexual contact with victim under age 13. <b>Statutory requirement of 144 month presumptive sentence for all violations.</b> |
| Second degree criminal sexual conduct | 25 years/\$35,000 fine | 48 month presumptive executed sentence; 21 month presumptive stayed sentence for statutory rape-type offenses. <b>Statutory requirement of 90 month presumptive sentence for certain violent offenses.</b>     |
| Third degree criminal sexual conduct  | 15 years/\$30,000 fine | 48 month presumptive executed sentence; 18 month presumptive stayed sentence for statutory rape-type offenses.   |
| Fourth degree criminal sexual conduct | 10 years/\$20,000 fine | 21 month presumptive stayed sentence; 12 month presumptive stayed sentence for statutory rape-type offenses.   |

Prepared by Kenneth P. Backhus  
 Senate Counsel & Research