

## AN ANALYSIS OF THE MANDATORY SENTENCING POLICIES OF SELECTED STATES

The following charts reflect the sentencing policies of most states in regard to eleven categories of crime. The information provided is based on internet searches done in March 2001. Any reader who wishes to closely analyze a given state's policies should check to ensure the information is current.

Generally, the crimes researched do not include aggravating factors, habitual offenders, under or over age victims, 3 strikes rules, or any other special circumstance.

The crimes researched include:

1. **Murder 1<sup>st</sup>**- this represents the highest level of murder a state recognizes. It generally includes aggravated murder, felony murder, and similar categories. This is the category that includes the death penalty in states where it is imposed.
2. **Murder 2<sup>nd</sup>**- this represents a state's second highest murder charge. In some instances there is no second highest murder charge so the crime is excluded.
3. **Manslaughter**- this represents the crime of killing a human being without intent to kill the human being. Some states have different degrees of manslaughter. In those states this represents first-degree manslaughter.
4. **Assault**- this represents the highest degree of assault that is not "aggravated." That is, this is assault without the use of a weapon.
5. **Rape**- this represents forcible penetration without aggravating factors. In many states it is not entitled rape but the definition includes forcible penetration.
6. **Kidnapping**- this represents the taking and holding of a person. It does not include aggravating factors.
7. **Sexual Abuse**- this represents crimes that include unlawful touching, sexual relations with minors and unknowing persons.
8. **Shoplifting**- this represents theft crimes of items that are valued above \$250 but below \$1000.
9. **Robbery**- this represents crimes against persons wherein one person steals from another person with the threat of force. This does not include aggravating factors.
10. **Burglary**- this represents crimes wherein the perpetrator breaks into a building for purposes of committing a felony. It does not include aggravating factors.
11. **D.U.I.**- this represents crimes wherein a driver's blood alcohol limit exceeds the proscribed limit. It does not include crimes wherein an accident occurred or a death was involved.
12. **Drug Crimes**- this represents crimes involving the sale and distribution of illegal drugs. It does not include possession crimes, aggravating factors, or multiple offenses.

## Alabama

<b>Crime Statute</b>	<b>Mandatory Minimum</b>	<b>Sentencing Guideline</b>	<b>Prison Time</b>	<b>Judicial Discretion</b>
Murder 1 <sup>st</sup> AC § 13A-6-2	No	Yes	Death or life w/o parole	Subject to aggravating circumstances.
Murder 2 <sup>nd</sup>	NA	NA	NA	No second-degree murder.
Manslaughter AC § 13A-6-3	Yes	No	2 years	Subject to aggravating circumstances. May increase penalty.
Assault AC § 13A-6-22	No	No	None	Complete discretion.
Rape AC § 13A-6-61	Yes	No	10 years	Subject to aggravating circumstances. May increase penalty.
Kidnapping AC § 13A-6-43	Yes	No	10 years	Subject to aggravating circumstances. May increase penalty.
Sexual Abuse AC § 13A-6-66	Yes	No	1 year and 1 day	Subject to aggravating circumstances. May increase penalty.
Shoplifting	No	No	None	Complete discretion.
Robbery AC § 13A-8-43	Yes	No	1 year and 1 day	Subject to aggravating circumstances. May increase penalty.
DUI AC § 32-5A-191	Yes	No	90 days susp. license	Each successive conviction results in increased penalty.
Trafficking in Cocaine AC § 13A-12-231	Yes	No	3 years	Depends upon quantity of illegal substance in perpetrator's possession.

## Alaska

<b>Crime Statute</b>	<b>Mandatory Minimum</b>	<b>Sentencing Guideline</b>	<b>Prison Time</b>	<b>Judicial Discretion</b>
Murder 1 <sup>st</sup> AS § 2.551.25	No	Yes	Min 20 years; Max 99	Court may substitute sentence if manifestly unjust.
Murder 2 <sup>nd</sup> AS § 2.551.25	No	Yes	Min 10; Max 99	Court may substitute sentence if manifestly unjust.
Manslaughter	NA	NA	NA	NA
Assault 1 <sup>st</sup> AS § 11.14.420	No	Yes	Min 5 yrs; Max 20 yrs	Court may substitute sentence if manifestly unjust.
Rape AS § 11.41.410	No	Yes	8 years subject to circumstance.	Court may substitute sentence if manifestly unjust.
Kidnapping AS § 11.41.300	No	Yes	Min 5 yrs; Max 20 yrs	Court may substitute sentence if manifestly unjust.
Sexual Abuse AS § 11.41.420	No	Yes	Not defined for 1 <sup>st</sup> offense.	Completely up to the court.
Shoplifting	NA	NA	NA	NA
DUI AS § 28.35.030	No	Yes	72 hours jail; \$250 fine	Court may substitute sentence if manifestly unjust
Trafficking in Cocaine	NA	NA	NA	Court may substitute sentence if manifestly unjust

## Arizona

<b>Crime Statute</b>	<b>Mandatory Minimum</b>	<b>Sentencing Guideline</b>	<b>Prison Time</b>	<b>Judicial Discretion</b>
Murder 1 <sup>st</sup> ARS § 13-703	No	Yes	Death or Life w/ or w/o parole	Subject to complete judicial discretion.
Murder 2 <sup>nd</sup> ARS § 13-710	No	Yes	16 years	May consider aggravating and mitigating circumstances.
Manslaughter ARS § 13-1103	Yes	No	5 years	No discretion, unless otherwise provided for by law.
Assault ARS § 13-1204	Yes	No	1 year	Subject to aggravating and mitigating circumstances.
Rape ARS § 13-1406	Yes	No	5 years	Subject to aggravating and mitigating circumstances.
Kidnapping ARS § 13-1304	Yes	No	5 years	No discretion, unless victim is released unharmed.
Sexual Abuse ARS § 13-1404	Yes	No	1.5 years	Sentence increased if victim is less than 15 years old.
Shoplifting ARS § 12-691	No	Yes	\$250 fine plus civil penalty	Fine includes value of stolen item. Fine is decreased if emancipated minor.
Robbery ARS § 13-1902	Yes	No	2.5 years	No discretion, unless otherwise provided for by law.
DUI ARS § 28-1381	Yes	No	10 days in jail; \$250 fine	Judge may suspend all but 24 hours of sentence.
Drug offenses ARS § 13-3419	Yes	No	9 months	Subject to amount of drugs and number of convictions.

## Arkansas

<b>Crime Statute</b>	<b>Mandatory Minimum</b>	<b>Sentencing Guideline</b>	<b>Prison Time</b>	<b>Judicial Discretion</b>
Murder 1 <sup>st</sup> ACA § 5-4-601	Yes	No	Life w/out parole	Very little. May alter only for procedural errors.
Murder 2 <sup>nd</sup> ACA § 5-10-103	Yes	No	5 years	May alter only for procedural errors.
Manslaughter ACA § 5-10-104	Yes	No	3 years	May alter only for procedural errors.
Assault ACA § 5-13-205	No	Yes	Max 1 year	May consider aggravating and mitigating circumstances.
Rape ACA § 5-14-103	Yes	No	10 years	May alter only for procedural errors.
Kidnapping ACA § 5-11-102	Yes	No	10 years	Mitigating factor if victim is released unharmed.
Sexual Abuse ACA § 5-14-108	Yes	No	3 years	May alter only for procedural errors.
Shoplifting ACA § 5-36-103	No	Yes	Max 1 year	Depends upon value of stolen items.
Robbery ACA § 5-12-102	Yes	No	5 years	May alter only for procedural errors.
DUI ACA § 5-65-104	No	Yes	Suspension for 180 days	Complete discretion.
Drug Offenses	NA	NA	NA	NA

## California

<b>Crime Statute</b>	<b>Mandatory Minimum</b>	<b>Sentencing Guideline</b>	<b>Prison Time</b>	<b>Judicial Discretion</b>
Murder 1 <sup>st</sup> CA Penal §190.2	No	Yes	Life w/out parole	Trier of fact may alter for special circumstances.
Murder 2 <sup>nd</sup> CA Penal §190.2	No	Yes	20 years if certain factors are met.	Trier of fact may alter for special circumstances.
Manslaughter	No	Yes	3 years	Trier of fact may alter for special circumstances.
Assault CA Penal § 245	No	Yes	2 years w/ fine	Trier of fact may alter for special circumstances.
Rape CA Penal § 264	No	Yes	3 years	Trier of fact may alter for special circumstances.
Kidnapping CA Penal § 208	No	Yes	3 years	Trier of fact may alter for special circumstances.
Sexual Abuse CA Penal § 289	No	Yes	3 years	Trier of fact may alter for special circumstances.
Shoplifting CA Penal § 490.5	No	Yes	\$50 Fine	Trier of fact may alter for special circumstances.
DUI CA Penal §§ 23152, 23175, 23206.5	Yes	No	48 consecutive hours w/ fine of \$390-\$1000	If repeat offender 180 days min. If not a felony, then to county jail. Otherwise state penitentiary.

## Colorado

<b>Crime Statute</b>	<b>Mandatory Minimum</b>	<b>Sentencing Guideline</b>	<b>Prison Time</b>	<b>Judicial Discretion</b>
Murder 1 <sup>st</sup> CRS § 18-3-102	No	Yes	Death or life sentence	These are presumptive ranges of sentencing subject to judicial discretion.
Murder 2 <sup>nd</sup> CRS § 18-3-103	No	Yes	8 years	These are presumptive ranges of sentencing subject to judicial discretion.
Manslaughter CRS § 18-3-104	No	Yes	2 years	These are presumptive ranges of sentencing subject to judicial discretion.
Assault CRS § 18-3-202	No	Yes	1 year	These are presumptive ranges of sentencing subject to judicial discretion.
Rape CRS § 18-3-402	No	Yes	2 years	Subject to aggravating and mitigating circumstances.
Kidnapping CRS § 18-3-301	No	Yes	8 years	If victim is released unharmed. Otherwise, Class 1 felony.
Sexual Abuse CRS § 18-3-404	No	Yes	2 years	Subject to aggravating and mitigating circumstances.
Shoplifting CRS § 18-4-401	No	Yes	1 year	Absolute discretion depending upon circumstances and value.
Burglary CRS § 18-4-202	No	Yes	4 years	Subject to aggravating and mitigating circumstances.
Robbery CRS § 18-4-301	No	Yes	2 years	Subject to aggravating and mitigating circumstances.
DUI CRS § 42-4-1301	Yes	No	5 days in jail; \$300 fine	No discretion.
Drug Offenses CRS § 18-18-405	No	Yes	8 years	Complete discretion depending upon surrounding circumstances.

## Connecticut

<b>Crime Statute</b>	<b>Mandatory Minimum</b>	<b>Sentencing Guideline</b>	<b>Prison Time</b>	<b>Judicial Discretion</b>
Murder 1 <sup>st</sup> CGS § 53a-35a	Yes	No	25 years	No discretion.
Murder 2 <sup>nd</sup>	NA	NA	NA	NA
Manslaughter CGS § 53a-35a	Yes	No	1 year	No discretion.
Assault CGS § 53a-59	No	Yes	5 years	Court may consider aggravating circumstances.
Rape CGS § 53a-70	No	Yes	2 years	Court may consider aggravating circumstances.
Kidnapping CGS § 53a-92	No	Yes	10 years	Court may consider aggravating circumstances.
Sexual Abuse CGS § 53a-71	Yes	No	9 months	May not be reduced.
Shoplifting CGS § 53a-125b	No	No	Not specified	Complete discretion.
Robbery CGS § 53a-134	Yes	No	5 years	May not be reduced by the court.
DUI CGS § 14-227a	Yes	No	2 days and \$500 fine	May not be reduced.
Drug Offenses CGS § 21a-277	No	No	None	Set maximums, but no minimums.

## Georgia

<b>Crime Statute</b>	<b>Mandatory Minimum</b>	<b>Sentencing Guideline</b>	<b>Prison Time</b>	<b>Judicial Discretion</b>
Murder 1 <sup>st</sup> GCA § 16-5-1	Yes	No	Death or life sentence	No discretion is allowed.
Murder 2 <sup>nd</sup>	NA	NA	NA	NA
Manslaughter GCA § 16-5-2	Yes	No	1 year	No discretion.
Assault GCA § 16-5-21	Yes	No	1 year	Subject to aggravating circumstances.
Rape GCA § 16-6-1	Yes	No	10 years	Subject to aggravating circumstances.
Kidnapping GCA § 16-5-40	Yes	No	10 years	No discretion.
Sexual Abuse GCA § 16-6-3	No	Yes	1 year	Unless victim is under 16 and perpetrator is over 21.
Shoplifting GCA § 16-8-14	No	No	Not defined	Mandatory sentencing for all subsequent convictions.
Burglary GCA § 16-7-1	Yes	No	1 year	No discretion.
Robbery GCA § 16-8-40	Yes	No	1 year	No discretion. Subject to aggravating circumstances.
DUI GCA § 32-5A-191	No	Yes	\$300 fine; 10 days	Either sentence may be suspended. Judge has full discretion.
Drug Offenses GCA § 16-13-30	Yes	No	2 years	Depending upon weight and category of substance.

## Idaho

<b>Crime Statute</b>	<b>Mandatory Minimum</b>	<b>Sentencing Guideline</b>	<b>Prison Time</b>	<b>Judicial Discretion</b>
Murder 1 <sup>st</sup> IC § 18-4004	Yes	No	10 years	Possible death or life sentence.
Murder 2 <sup>nd</sup> IC § 18-4004	Yes	No	10 years	No discretion.
Assault IC § 18-906	No	Yes	No min; Max 5 yrs	Complete discretion.
Rape IC § 18-6104	No	Yes	1 year	Possible life sentence. Complete discretion.
Kidnapping IC § 18-4504	No	Yes	Life w/ poss. death penalty	Complete discretion.
Sexual Abuse IC § 18-6605	No	Yes	5 years	Complete discretion.
Shoplifting IC § 18-2408	No	No	No min	Complete discretion. Theft defined in ID ST § 18-2403.
DUI IC § 18-8005	No	Yes	Suspended license	Complete discretion.

## Illinois

<b>Crime Statute</b>	<b>Mandatory Minimum</b>	<b>Sentencing Guideline</b>	<b>Prison Time</b>	<b>Judicial Discretion</b>
<b>Murder 1<sup>st</sup></b> ICS 730 § 5/5-8-1	Yes	No	20 years	Subject to aggravating and mitigating circumstances.
<b>Murder 2<sup>nd</sup></b> ICS 720 § 5/9-2 ICS 730 § 5/5-8-1	Yes	No	4 years	Subject to aggravating and mitigating circumstances. Class 1 felony
<b>Manslaughter</b> ICS 720 § 5/9-3	Yes	No	2 years	Subject to aggravating and mitigating circumstances. Class 3 felony
<b>Assault</b> ICS 720 § 5/12-1	Yes	No	1 year	Subject to aggravating and mitigating circumstances Class 4 felony
<b>Rape</b> ICS 720 § 5/12-13	Yes	No	4 years	Subject to aggravating and mitigating circumstances. Class 1 felony
<b>Kidnapping</b> ICS 720 § 5/10-1	Yes	No	3 years	Subject to aggravating and mitigating circumstances. Class 2 felony
<b>Sexual Abuse</b> ICS 720 § 5/12-15	NA	NA	1 year	Subject to aggravating and mitigating circumstances. Class 4 felony
<b>Shoplifting</b> ICS 720 § 5/16-1	No	Yes	1 year if over \$300	Subject to aggravating and mitigating circumstances. Class 4 felony
<b>Burglary</b> ICS 720 § 5/19-3	Yes	No	4 years	Subject to aggravating and mitigating circumstances. Class 1 felony
<b>Robbery</b> ICS 720 § 5/18-1	Yes	No	3 years	Subject to aggravating and mitigating circumstances. Class 2 felony
<b>DUI</b> ICS 625 § 5/6-208.1	Yes	No	6 months suspension	No discretion. Second conviction penalties much harsher.
<b>Drug Offenses</b> ICS 720 § 550/4	No	No	Fine	Minimum amounts 2.5 gram. Complete discretion

## Indiana

<b>Crime Statute</b>	<b>Mandatory Minimum</b>	<b>Sentencing Guideline</b>	<b>Prison Time</b>	<b>Judicial Discretion</b>
Murder 1 <sup>st</sup> IC 35-50-2-4	Yes	No	20 years	Life sentence w/possible parole after 20 years. No discretion.
Murder 2 <sup>nd</sup> IC 706-656	No	No	None	Up to sentencing commission. Life sentence w/possible parole from day 1.
Manslaughter IC 31-30-3-5	No	No	NA	Class C felony. No discretion.
Assault IC 35-50-2-5	Yes	No	6 years	Class B felony. No discretion.
Rape IC 35-42-4-1	Yes	No	6 years	Class B felony. No discretion.
Kidnapping IC 35-50-2-4	Yes	No	20 years	Class A felony. No discretion.
Sexual Abuse IC 35-50-2-4	Yes	No	20 years	Class A felony. No discretion.
Shoplifting IC 35-43-4-3	No	No	NA	Class A misdemeanor.
Burglary IC 35-42-4-1	Yes	No	6 years	Class B felony. No discretion.
Robbery IC 35-50-2-4	Yes	No	20 years	Class A felony. No discretion.
DUI IC 9-30-5-2	No	No	None	Class A misdemeanor.
Drug Offenses IC 35-48-4-2 IC 35-42-4-1	Yes	No	6 years	Class B felony. No discretion.

## Kentucky

<b>Crime Statute</b>	<b>Mandatory Minimum</b>	<b>Sentencing Guideline</b>	<b>Prison Time</b>	<b>Judicial Discretion</b>
Murder 1 <sup>st</sup> KRS § 507.020	NA	NA	Death or life sentence	Capital offense.
Murder 2 <sup>nd</sup>	NA	NA	NA	NA
Manslaughter KRS § 507.030	Yes	No	10 years	No discretion.
Assault KRS § 508.010	Yes	No	10 years	No discretion.
Rape KRS § 510.040	Yes	No	10 years	No discretion.
Kidnapping KRS § 509.040	Yes	No	10 years	Class B felony if victim released unharmed.
Sexual Abuse KRS § 510.010	No	Yes	1 year	Class D felony. Court may consider circumstances.
Shoplifting	NA	NA	NA	NA
Burglary KRS § 511.020	Yes	No	10 years	No discretion
Robbery KRS § 515.020	Yes	No	10 years	No discretion
DUI KRS § 189A00.010	No	Yes	48 hours in jail or \$300 fine	Judge may consider circumstances and sentence accordingly.
Drug Offenses	NA	NA	NA	NA

## Louisiana

**LA C.Cr.P.A. 893.3:** If the court finds that the crime was committed while the perpetrator possessed a firearm the minimum sentence is 2 years. If the perpetrator used the firearm, the minimum sentence is 5 years. If the perpetrator discharged the firearm, the minimum sentence is 10 years. If the perpetrator is convicted of a crime that has a shorter maximum sentencing, then the longer term should be used.

<b>Crime Statute</b>	<b>Mandatory Minimum</b>	<b>Sentencing Guideline</b>	<b>Prison Time</b>	<b>Judicial Discretion</b>
Murder 1 <sup>st</sup> LRSa 14:30	Yes	No	Death or life sentence	No possibility of parole. No discretion.
Murder 2 <sup>nd</sup> LRSa 14:30.1	Yes	No	Life sentence	No possibility of parole. No discretion.
Manslaughter LRSa 14:31	Yes	No	10 years	If aggravated. If not aggravated then no minimum.
Assault LRSa 14:37	No	Yes	6 months	May be fined up to \$1000 as well.
Rape LRSa 14:42.1	Yes	No	5 years	Not eligible for release during first two years. Max 40 years.
Kidnapping LRSa 14:44.1	Yes	No	5 years	May be sentenced up to 40 years.
Sexual Abuse LRSa 14:43.1	No	Yes	Max 10 years	Complete discretion.
Shoplifting LRSa 14:67	No	No	Fined	Depends upon value of item stolen.
Burglary	NA	NA	NA	NA
Robbery LRSa 14:64	Yes	No	10 years	If aggravated. If not aggravated no min. May be sentenced to life.
DUI LRSa § 14:98	No	Yes	6 months hard labor	For third offense. Fines for first two offenses. Over 4 offenses, 5 years minimum.
Drug Offenses LRSa 40:966	No	Yes	Fine	Depends upon substance and quantity.

## Maine

<b>Crime Statute</b>	<b>Mandatory Minimum</b>	<b>Sentencing Guideline</b>	<b>Prison Time</b>	<b>Judicial Discretion</b>
Murder 1 <sup>st</sup> MRS § 202, § 1251	Yes	No	25 years	May be sentenced to life. No discretion w/ regard to min.
Murder 2 <sup>nd</sup>	NA	NA	NA	NA
Manslaughter MRS § 203	No	No	No min	Class C crime. Max 5 years.
Assault MRS § 207	No	No	No min	Class D crime. Max 1 year.
Rape MRS § 253	No	No	No min	Class A crime. Max 40 years.
Kidnapping MRS § 301	No	No	No min	Class B if victim released unharmed.
Sexual Abuse	No	No	No min	Class D crime. Max 6 months.
Shoplifting MRS § 353	No	No	No min	Sentence is not established either as max or min.
Burglary MRS § 401	No	No	No min	Class C crime unless aggravating circumstances. Max 5 years.
Robbery MRS § 651	No	No	No min	Class B crime unless aggravating circumstances. Max 10 years.
DUI	NA	NA	NA	NA
Drug Offenses MRS § 1103	No	No	No min	Class B crime depending upon substance and amount. Max 10 years.

## Maryland

This information is taken from the Maryland Sentencing Guidelines Manual. All reference numbers refer to sections of the manual.

<b>Crime Statute</b>	<b>Mandatory Minimum</b>	<b>Sentencing Guideline</b>	<b>Prison Time</b>	<b>Judicial Discretion</b>
Murder 1st	NA	NA	NA	NA
Murder 2 <sup>nd</sup>	NA	NA	NA	NA
Manslaughter Follows common law	No	No	No min	Max 10 year if during the commission of felony, such as rape; life sentence mandatory.
Assault 27, § 12	Yes	No	2 years	Maximum sentence may be 15. Judge may sentence based upon circumstances.
Rape 27, § 462(a)	No	No	No min	Max life sentence.
Kidnapping 27, § 337	No	No	No min	Max 30 years depending upon circumstances
Sexual Abuse 27, § 464(a)	No	No	No min	Max life sentence.
Shoplifting	NA	NA	NA	NA
Burglary 27, § 29(a)	No	No	No min	Max 25 years. Depending upon circumstances.
Robbery 27, § 486	No	No	No min	Max 15 years.
DUI	NA	NA	NA	NA
Drug Offenses 27, § 286B	No	No	No min	Max 5 years depending upon amount.

## Massachusetts

<b>Crime Statute</b>	<b>Mandatory Minimum</b>	<b>Sentencing Guideline</b>	<b>Prison Time</b>	<b>Judicial Discretion</b>
Murder 1 <sup>st</sup>	Yes	No	Life sentence	No discretion.
Murder 2 <sup>nd</sup>	NA	NA	NA	No such charge.
Manslaughter	Yes	No	96 months	May sentence btw 96-144 months.
Assault	Yes	No	40 months	May sentence btw 40-60 months.
Rape	Yes	No	60 months	May sentence btw 60-90 months.
Kidnapping	NA	NA	NA	<b>NOT DELINEATED</b>
Sexual Abuse	NA	NA	NA	NA
Shoplifting	No	No	No min	May sentence up to 12 months.
Robbery <b>if armed</b>	Yes	No	60 months	May sentence btw 60-90 months.
Robbery <b>not armed</b>	No	No	No min	May sentence to 12-18 months. No prison time required.
Burglary	No	No	No min	May sentence up to 30 months for multiple violations.
DUI	No	Yes	Fine for first two offenses	On third offense mandatory time 18 months.

## Mississippi

<b>Crime Statute</b>	<b>Mandatory Minimum</b>	<b>Sentencing Guideline</b>	<b>Prison Time</b>	<b>Judicial Discretion</b>
Murder 1 <sup>st</sup> SEC 97-3-21	Yes	No	Life w/out parole	Subject to circumstances. Complete discretion.
Murder 2 <sup>nd</sup> SEC 97-3-21	Yes	No	Life w/ parole	Subject to circumstances. Complete discretion.
Manslaughter SEC 97-3-25	Yes	No	2-20 years	Subject to circumstances.
Assault SEC 97-3-7	NA	NA	NA	Complicated system of determining relationship.
Rape SEC 97-3-71	No	No	None	May be sentenced to life or shorter time by jury.
Kidnapping SEC 97-3-53	Yes	No	1 year	Capital offense. Jury may sentence to life sentence.
Sexual Abuse SEC 97-3-101	No	No	Max 30 years	Complete discretion.
Shoplifting SEC 97-17-43	No	Yes	Max 6 months or \$1000	Complete discretion.
Burglary SEC 97-17-29	No	Yes	Max 10 years	Complete discretion.
Robbery SEC 97-3-75	No	Yes	Max 15 years	Subject to aggravating circumstances.
DUI SEC § 63-11-30	No	Yes	0-5 years	Punishment increases with each offense.

## Montana

<b>Crime Statute</b>	<b>Mandatory Minimum</b>	<b>Sentencing Guideline</b>	<b>Prison Time</b>	<b>Judicial Discretion</b>
<b>Murder 1<sup>st</sup></b> MCA 45-5-102	Yes	No	Death	Unless convicted prior to 18 <sup>th</sup> birthday.
<b>Murder 2<sup>nd</sup></b> MCA 45-5-103	No	Yes	2-40 years	Complete discretion. 2 years min.
<b>Manslaughter</b> MCA 45-5-104	No	No	Not more than 20 years	Complete discretion.
<b>Assault</b> MCA 45-5-202	No	Yes	2-20 years	Complete discretion. 2 years min.
<b>Rape</b> MCA 45-5-503	No	Yes	2-100 years	Complete discretion. 2 years min.
<b>Kidnapping</b> MCA 45-5-302	No	Yes	2-10 years	Complete discretion. 2 years min.
<b>Sexual Abuse</b> MCA 45-5-502	No	Yes	2-100 years	Complete discretion. 2 years min.
<b>Shoplifting</b> MCA 45-6-301	No	No	Not more than 6 months	Complete discretion.
<b>Burglary</b> MCA 45-6-204	No	No	Not more than 20 years	Complete discretion.
<b>Robbery</b> MCA 45-5-401	No	Yes	2-10 years	Complete discretion. 2 years min.
<b>DUI</b> MCA § 61-8-731	No	No	No time for first offense	For 4 <sup>th</sup> conviction, sentenced to 6 months.

## New Jersey

<b>Crime Statute</b>	<b>Mandatory Minimum</b>	<b>Sentencing Guideline</b>	<b>Prison Time</b>	<b>Judicial Discretion</b>
Murder 1 <sup>st</sup> NJS 2C: 11-3	Yes	No	30 years	May consider aggravating and mitigating factors. May execute.
Murder 2 <sup>nd</sup>	NA	NA	NA	NA
Manslaughter NJS 2C: 43-6	No	Yes	10-30 years	May consider aggravating and mitigating factors.
Assault NJS 2C: 12-1	No	Yes	4 years	May consider aggravating and mitigating factors.
Rape NJS 2C: 14-2	No	Yes	15-30 years	May consider aggravating and mitigating factors.
Kidnapping NJS 2C: 13-1	No	Yes	15-30 years	May consider aggravating and mitigating factors.
Sexual Abuse NJS 2C: 14-2	No	Yes	9 months	May consider aggravating and mitigating factors.
Shoplifting NJS 2C: 20-3	No	No	None	Complete discretion for each circumstance.
Burglary NJS 2C: 18-2	No	Yes	4 years	May consider aggravating and mitigating factors.
Robbery NJS 2C: 15-1	No	Yes	7 years	May consider aggravating and mitigating factors.

## New Mexico

<b>Crime Statute</b>	<b>Mandatory Minimum</b>	<b>Sentencing Guideline</b>	<b>Prison Time</b>	<b>Judicial Discretion</b>
Murder 1 <sup>st</sup> NMSA § 30-2-1	Yes	No	No min	Capital felony.
Murder 2 <sup>nd</sup> NMSA § 30-2-1	No	Yes	15 years	May allow parole/probation. Judge has complete discretion.
Manslaughter NMSA § 30-2-3	No	Yes	3 years	May allow parole/probation. Judge has complete discretion
Assault NMSA § 30-3-2	No	Yes	9 years	May allow parole/probation. Judge has complete discretion.
Rape NMSA § 30-9-11	No	Yes	18 years	May allow parole/probation. Judge has complete discretion.
Kidnapping NMSA § 30-4-1	No	Yes	18 years	May allow parole/probation. Judge has complete discretion.
Shoplifting NMSA § 30-16-1	No	Yes	18 months	May allow parole/probation. Judge has complete discretion.
Burglary NMSA § 30-16-3	No	Yes	3 years	May allow parole/probation. Judge has complete discretion
Robbery NMSA § 30-16-2	No	Yes	9 years	May allow parole/probation. Judge has complete discretion.
DUI NMSA § 66-8-102	No	Yes	1 <sup>st</sup> none	4 <sup>th</sup> conviction min. 6 months.
Drug crimes NMSA § 30-31-20	No	Yes	9 years	May allow parole/probation. Judge has complete discretion.

## North Dakota

**NDCC 12.1-32-02.1** requires that when a crime is committed with a weapon a prison sentence be imposed. The sentence imposed will depend upon the crime perpetrated and the level of severity of that crime.

<b>Crime Statute</b>	<b>Mandatory Minimum</b>	<b>Sentencing Guideline</b>	<b>Prison Time</b>	<b>Judicial Discretion</b>
Murder 1 <sup>st</sup> NDCC 12.1-16-01	No	Yes	Life sentence	Class A felony murder. May be eligible for parole aft 30 years.
Murder 2 <sup>nd</sup> NDCC 12.1-16-01	No	Yes	Max 20 years	Class A felony murder.
Manslaughter NDCC 12.1-16-02	No	Yes	10 years	Class B felony.
Assault NDCC 12.1-17-01.1	No	Yes	1 year \$1000 fine	Class A misdemeanor.
Rape NDCC 12.1-20-07	NA	NA	NA	NA
Kidnapping NDCC 12.1-18-01	No	Yes	Max 20 years	Class A unless victim voluntarily released unharmed then Class B.
Sexual Abuse NDCC 12.1-20-07	No	Yes	5 years	Class C felony.
Shoplifting NDCC 12.1-23-05	No	Yes	10 years	Class B misdemeanor.
Burglary NDCC 12.1-22-02	No	Yes	10 years	Class B felony.
Robbery NDCC 12.1-22-01	No	Yes	5 years	Class C felony.
DUI NDCC 39-08-01	No	No	No min	After 4 <sup>th</sup> time, mandatory 180 days. 48 hours consecutively.

## Ohio

<b>Crime Statute</b>	<b>Mandatory Minimum</b>	<b>Sentencing Guideline</b>	<b>Prison Time</b>	<b>Judicial Discretion</b>
Murder 1 <sup>st</sup> ORCA § 2929.02	Yes	No	Death or life w/out parole	No discretion.
Murder 2 <sup>nd</sup> ORCA § 2929.02	Yes	No	15 years	No discretion.
Manslaughter ORCA § 2929.03	No	Yes	3-10 years	1 <sup>st</sup> felony. May sentence anywhere w/in the range.
Assault ORCA § 2903.11	No	Yes	3-8 years	2 <sup>nd</sup> felony. May sentence anywhere w/in the range.
Rape ORCA § 2907.02	No	Yes	3-10 years	1 <sup>st</sup> felony. May sentence anywhere w/in the range.
Kidnapping ORCA § 2905.01	No	Yes	3-10 years	1 <sup>st</sup> felony. If released unharmed 2 <sup>nd</sup> felony.
Sexual Abuse ORCA § 2907.05	No	Yes	6-18 months	4 <sup>th</sup> felony. May sentence anywhere w/in the range.
Shoplifting ORCA § 2913.02	No	Yes	6-12 months	5 <sup>th</sup> felony. May sentence anywhere w/in the range.
Burglary ORCA § 2911.12	No	Yes	3-8 years	2 <sup>nd</sup> felony. May sentence anywhere w/in the range.
Robbery ORCA § 2911.02	No	Yes	3-8 years	2 <sup>nd</sup> felony. May sentence anywhere w/in the range.
DUI ORCA § 4511.99	No	Yes	Not for 1 <sup>st</sup> offense	Minimum fine \$750. After 4 offenses 6-18 months.
Selling Drugs ORCA § 2925.03	No	Yes	6-18 months	4 <sup>th</sup> felony. May sentence anywhere w/in the range.

## Oregon

<b>Crime Statute</b>	<b>Mandatory Minimum</b>	<b>Sentencing Guideline</b>	<b>Prison Time</b>	<b>Judicial Discretion</b>
Murder 1 <sup>st*</sup> ORS § 163.105	Yes	No	Death, life w/out parole, or 30 years.	No possibility of early release.
Murder 2 <sup>nd†</sup> ORS § 137.700	Yes	No	300 months	No possibility of early release.
Manslaughter 1 <sup>st</sup> ORS § 137.700	Yes	No	120 months	No possibility of early release.
Assault 1 <sup>st</sup> ORS § 137.700	Yes	No	90 months	No possibility of early release.
Rape 1 <sup>st</sup> ORS § 137.700	Yes	No	100 months	No possibility of early release.
Kidnapping 1 <sup>st</sup> ORS § 137.700	Yes	No	90 months	No possibility of early release.
Sexual Abuse 1 <sup>st</sup> ORS § 137.700	Yes	No	75 months	No possibility of early release.
Shoplifting ORS § 164.045	No	No	Class A misdemeanor	Sentence up to 1 year.
DUI ORS §§ 132.129, 813.010	Yes	No	Class A misdemeanor to Class C felony for 3 convictions in 10 years; \$1000-2000 fine; community service 80-250 hrs	Sentence up to 1 year for first two offenses, and sentence up to 5 years for third offense.

\* What is commonly Murder in the First-Degree in many states is designated “Aggravated Murder” in Oregon.

† What is commonly Murder in the Second-Degree in many states is designated “Murder” in Oregon.

## Rhode Island

**RIGL § 11-47-3:** If a person is carrying a dangerous weapon or substance (gun, knife, or bomb) in the commission of a crime, then every person violating the provisions of this section shall be punished for the first conviction by imprisonment for not less than three (3) nor more than ten (10) years; for a second conviction by imprisonment for not less than ten (10) nor more than twenty (20) years; and for a third or subsequent conviction by not less than fifteen (15) years to life imprisonment and for the penalties provided in this section that person shall not be afforded the provisions of suspension or deferment of sentence, nor of probation.

<b>Crime Statute</b>	<b>Mandatory Minimum</b>	<b>Sentencing Guideline</b>	<b>Prison Time</b>	<b>Judicial Discretion</b>
Murder 1 <sup>st</sup> RIGL § 11-23-1	No	Yes	Life sentence	May be eligible for parole, unless aggravating circumstances exist.
Murder 2 <sup>nd</sup> RIGL § 11-23-1	Yes	No	10 years	May be sentenced for life.
Manslaughter RIGL § 11-23-3	No	No	No min	May be sentenced for up to 30 years. Complete discretion.
Assault RIGL § 11-5-2	No	Yes	No min	May sentence up to 20 years.
Rape RIGL § 11-37-3	Yes	No	10 years	May be sentenced to life.
Kidnapping RIGL § 11-26-1	No	No	No min	May be sentenced for up to 20 years. Complete discretion.
Sexual Abuse RIGL § 11-37-5	Yes	No	3 years	Max 15 years.
Shoplifting RIGL § 11-41-20	No	Yes	\$50 fine	Multiple offenses receive more severe punishments.
Burglary RIGL § 11-8-1	Yes	No	5 years	No discretion.
Robbery RIGL § 11-39-1	Yes	No	10 years	May be sentenced for life.
DUI	NA	NA	NA	NA
Trafficking in Cocaine	NA	NA	NA	NA

## South Carolina

Section **16-23-490** of the South Carolina code requires that any person convicted of a “violent crime” who visibly displays or uses a knife or firearm in the commission of the crime, be incarcerated for not less than 5 years. In the following chart, if the mandatory sentence is less than 5 years, and the crime was committed with a weapon, the sentence must be for at least 5 years. Service of the five-year sentence is mandatory unless a longer mandatory minimum term of imprisonment is provided by law for the violent crime. The court may impose this mandatory five-year sentence to run consecutively or concurrently.

<b>Crime Statute</b>	<b>Mandatory Minimum</b>	<b>Sentencing Guideline</b>	<b>Prison Time</b>	<b>Judicial Discretion</b>
Murder 1 <sup>st</sup> SCCA § 16-3-20	Yes	No	30 years	No discretion. No early release.
Murder 2 <sup>nd</sup>	NA	NA	NA	NA
Manslaughter SCCA § 16-3-50	Yes	No	2 years	May be sentenced up to 30 years.
Assault SCCA § 16-3-610	Yes	No	3 months	Max sent up to 12 months.
Rape SCCA § 16-3-652	No	No	No min	Max 30 years at discretion of the court.
Kidnapping SCCA § 16-3-910	No	No	No min	Max 30 years, unless victim is murdered.
Sexual Abuse SCCA § 16-3-654	No	No	No min	Max 10 years.
Shoplifting SCCA § 16-13-110	No	No	\$500 fine	Sentence may not exceed 5 years if amount taken is under \$1000 or 10 years if over \$1000.
Burglary SCCA § 16-11-311	Yes	No	15 years	May sentence up to life in prison.
Robbery SCCA § 16-11-325	No	No	No min	Max 15 years.
DUI SCCA § 56-5-2930	No	No	No min for first offense	For subsequent may imprison for 1 to 5 years with 1 year mandatory.
Drug Offenses	NA	NA	NA	NA

## Tennessee

<b>Crime Statute</b>	<b>Mandatory Minimum</b>	<b>Sentencing Guideline</b>	<b>Prison Time</b>	<b>Judicial Discretion</b>
<b>Murder 1<sup>st</sup></b> TCA § 39-13-202	Yes	No	Death or life w/o parole	No discretion.
<b>Murder 2<sup>nd</sup></b> TCA § 39-13-210	Yes	No	15 years	May sentence up to 25 years.
<b>Manslaughter</b>	NA	NA	NA	NA
<b>Assault</b> TCA § 39-13-102	No	Yes	3 years	May sentence up to 6 years.
<b>Rape</b> TCA § 39-13-503	No	Yes	8 years	May sentence up to 12 years.
<b>Kidnapping</b> TCA § 39-13-303	No	Yes	3 years	May sentence up to 6 years.
<b>Sexual Abuse</b> TCA § 39-13-505	No	Yes	1-5 years	May sentence up to 5 years.
<b>Shoplifting</b> TCA § 39-14-105	No	No	None	Class A misdemeanor.
<b>Burglary</b> TCA § 39-14-402	No	Yes	2 years	May sentence up to 4 years.
<b>Robbery</b> TCA § 39-13-401	No	Yes	3 years	May sentence up to 6.

## Texas

<b>Crime Statute</b>	<b>Mandatory Minimum</b>	<b>Sentencing Guideline</b>	<b>Prison Time</b>	<b>Judicial Discretion</b>
Murder 1 <sup>st</sup> TCPA § 19.03	Yes	No	Life sentence	Capital felony. Prosecutor may seek death penalty.
Murder 2 <sup>nd</sup> TCPA § 19.02	Yes	No	2 years	2 <sup>nd</sup> Felony.
Manslaughter TCPA § 19.04	Yes	No	2 years	2 <sup>nd</sup> Felony. May be sentenced up to 20 years.
Assault TCPA § 22.01	No	Yes	Fine and/or 1 year jail	Class A misdemeanor. Court has absolute discretion.
Rape TCPA § 22.011	Yes	No	2 years	2 <sup>nd</sup> Felony. May be sentenced up to 20 years.
Kidnapping TCPA § 20.03	Yes	No	2 years	3 <sup>rd</sup> felony. May be sentenced up to 10 years.
Sexual Abuse TCPA § 22.011	No	No	No	Complete discretion.
Shoplifting TCPA § 31.03	No	Yes	Fine and/or 1 year jail	Class A misdemeanor. Court has absolute discretion.
Burglary TCPA § 30.02	Yes	No	2 years	2 <sup>nd</sup> Felony. May be sentenced up to 20 years.
Robbery TCPA § 29.02	Yes	No	2 years	2 <sup>nd</sup> Felony. May be sentenced up to 20 years.
DUI TCPA § 49.04	No	No	No time for first offense	10 years for 3 <sup>rd</sup> offense in 10 years.
Drug Offenses	NA	NA	NA	NA

## Vermont

<b>Crime Statute</b>	<b>Mandatory Minimum</b>	<b>Sentencing Guideline</b>	<b>Prison Time</b>	<b>Judicial Discretion</b>
Murder 1 <sup>st</sup> VSA § 2303	Yes	No	35 years	Court may consider aggravating or mitigating circumstances.
Murder 2 <sup>nd</sup> VSA § 2303	Yes	No	20 years	Court may consider aggravating or mitigating circumstances.
Manslaughter VSA § 2304	Yes	No	1 year	May consider fine in lieu of prison if circumstances allow.
Assault VSA § 1024	No	No	No min	Not more than 15 years w/o additional charges.
Rape VSA § 3253	No	Yes	Max life sentence	Court may consider aggravating factors.
Kidnapping VSA § 2405	No	Yes	30 years	Life sentence if victim is not released unharmed.
Sexual Abuse VSA § 3252	No	Yes	Max 20 years	Court may consider aggravating factors
Shoplifting VSA § 2502	No	Yes	1 year or \$500 fine	Not more than \$500 in value.
Burglary VSA § 1201	No	No	Max 15 years	Complete discretion.
Robbery	NA	NA	NA	NA
DUI VSA § 1201	No	No	None	For third offense 5 years min.
Drug Offenses	NA	NA	NA	NA

## Virginia

<b>Crime Statute</b>	<b>Mandatory Minimum</b>	<b>Sentencing Guideline</b>	<b>Prison Time</b>	<b>Judicial Discretion</b>
Murder 1 <sup>st</sup> VCA § 18.2-31	Yes	No	Death	Class 1 felony (§ 18.2-10).
Murder 2 <sup>nd</sup>	NA	NA	NA	NA
Manslaughter VCA § 18.2-35	Yes	No	1 year	Class 5 felony (§ 18.2-10).
Assault VCA § 18.2-57	No	No	6 months	Court may determine if aggravating factors warrant punishment.
Rape VCA § 18.2-61	Yes	No	5 years	May sentence to a life sentence. Statutorily mandated.
Kidnapping VCA § 18.2-47	Yes	No	1 year	Class 5 felony (§ 18.2-10).
Sexual Abuse VCA § 18.2-67.4	No	No	Max 1 year	Class 1 misdemeanor (§ 18.2-11).
Shoplifting VCA § 18.2-96	No	No	Max 1 year	Class 1 misdemeanor (§ 18.2-11).
Burglary VCA § 18.2-89	Yes	No	5 years	Class 3 felony (§ 18.2-10).
Robbery	NA	NA	NA	NA
DUI VCA §§ 18.2-266, 18.2-270, 18.2-10	No	No	No min	1-5 years possible. Judge has complete discretion.
Drug Offenses	NA	NA	NA	NA

## West Virginia

<b>Crime Statute</b>	<b>Mandatory Minimum</b>	<b>Sentencing Guideline</b>	<b>Prison Time</b>	<b>Judicial Discretion</b>
Murder 1 <sup>st</sup> WVA §61-2-2	Yes	No	Life sentence	No discretion.
Murder 2 <sup>nd</sup> WVA §61-2-3	Yes	No	10 years	No discretion.
Manslaughter WVA §61-2-4	Yes	No	3 years	No discretion.
Assault WVA §61-2-9	Yes	No	1 year	May confine up to 5 years.
Rape WVA §61-8B-3	Yes	No	15 years	May be sentenced up to 35 years.
Kidnapping WVA §61-2-14a	Yes	No	10 years	Judge may consider parole if person pleads guilty and circumstances warrant.
Sexual Abuse WVA §61-8B-7	Yes	No	1 year	May sentence up to 5 years.
Shoplifting WVA §61-3A-3	No	Yes	Fines \$100 to \$500	Court may consider value of item stolen.
Burglary WVA §61-3-11	Yes	No	1 year	May sentence up to 15 years.
Robbery WVA §61-2-12	Yes	No	10 years	If done with intent to injure or disregard for safety.
DUI WVA § 17C-5-2	Yes	No	1 year. \$3000	No discretion. Penalties stiffen w/ repeated offenders.
Drug Offenses WVA §60A-4-403a	Yes	No	6 months	May sentence to fines as well.

## Wyoming

<b>Crime Statute</b>	<b>Mandatory Minimum</b>	<b>Sentencing Guideline</b>	<b>Prison Time</b>	<b>Judicial Discretion</b>
Murder 1 <sup>st</sup> WSA § 6-2-102	No	Yes	Death or life sentence	Complete discretion as to whether death or life sentence.
Murder 2 <sup>nd</sup> WSA § 6-2-104	Yes	No	20 years	No discretion below 20 years.
Manslaughter WSA § 6-2-105	No	No	No min	Max sentence 20 years.
Assault	NA	NA	NA	NA
Rape	NA	NA	NA	NA
Kidnapping WSA § 6-2-201	Yes	No	20 years	No discretion if victim is not voluntarily released unharmed.
Sexual Abuse WSA § 6-2-306	Yes	No	5 years	May sentence to up to 20 years.
Shoplifting WSA § 6-3-404	No	No	No min	May be sentenced up to 10 years if more than \$500.
Burglary WSA § 6-3-301	Yes	No	5 years (aggravated)	No min for non-aggravated burglary.
Robbery WSA § 6-2-401	Yes	No	5 years (aggravated)	No min for non-aggravated robbery.
DUI	NA	NA	NA	NA
Drug Offenses WSA § 35-7-1031	No	No	No min	May be sentenced up to 25 years depending upon substance and quantity.