

Jamie Long
State Representative
Assistant Majority Leader
61B
Hennepin



Minnesota House of Representatives

COMMITTEES:
Energy and Climate Finance
Public Safety and Criminal Justice Reform
State Government
Ways and Means

December 19, 2019

Dear Minnesota Sentencing Guidelines Commission Members:

I am writing to respectfully request that the Minnesota Sentencing Guidelines Commission (MSGC) consider adopting as a recommendation under its Minn. Stat. 244.09 Subd. 6 authority that the legislature instructs and resources the MSGC to collect probation data.

Recently, probation practices in the state of Minnesota have come under scrutiny by legislators, the media, and the public. Policymakers are being asked to make pressing decisions on important probation proposals. We should all be able to agree that the more informed we are about the current state of probation, the better equipped we will be while making these decisions.

For that reason, the Minnesota House passed a bi-partisan bill (HF 997/SF 2477), authored by myself and Senator Chamberlain last session, that instructed the MSGC to collect probation data in the same way it collects sentencing data. To be specific, Section 2 of the language in HF 997/SF 2477 amends Section 244.09, Subdivision 6 to read:

Subd. 6. Clearinghouse and information center. The commission, in addition to establishing Sentencing Guidelines, shall serve as a clearinghouse and information center for the collection, preparation, analysis and dissemination of information on state and local sentencing and probation practices, and shall conduct ongoing research regarding Sentencing Guidelines, use of imprisonment and alternatives to imprisonment, probation terms, conditions of probation, probation revocations, plea bargaining, recidivism, and other matters relating to the improvement of the criminal justice system. The commission shall from time to time make recommendations to the legislature regarding changes in the Criminal Code, criminal procedures, and other aspects of sentencing and probation.

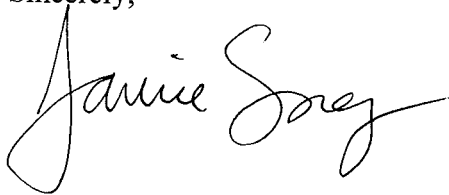
In addition, Section 3 of the language in HF 997/SF 2477 amends Section 244.09, Subdivision 8 to read:

Subd. 8. Administrative services. The commissioner of corrections shall provide adequate office space and administrative services for the commission, and the commission shall reimburse the commissioner for the space and services provided. The commission 3.8 may also utilize, with their consent, the services, equipment, personnel, information and

resources of other state agencies; and may accept voluntary and uncompensated services, contract with individuals, public and private agencies, and request information, reports and data from, and establish data integrations with, any agency of the state, or any of its political subdivisions, to the extent authorized by law.

Adopting such a recommendation to the legislature would help raise awareness of the need for probation data to better inform the legislature and to help the MSGC perform its duty of ensuring “uniformity, proportionality, rationality, and predictability in sentencing.” Thank you for your consideration.

Sincerely,

A handwritten signature in cursive script that reads "Jamie Sorey". The signature is written in black ink and is positioned below the word "Sincerely,".

HF997 - 0 - "Probation Guidance; Data Integration Prov."

Chief Author: **Jamie Long**
 Committee: **Public Safety and Criminal Justice Reform Finance & Policy Division**
 Date Completed: **02/26/2019**
 Agency: **Sentencing Guidelines Comm**

State Fiscal Impact	Yes	No
Expenditures	X	
Fee/Departmental Earnings		X
Tax Revenue		X
Information Technology	X	
Local Fiscal Impact	X	

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions shown in the parentheses.

State Cost (Savings)	Biennium			Biennium		
	Dollars in Thousands	FY2019	FY2020	FY2021	FY2022	FY2023
General Fund	-	651	301	223	223	
Total	-	651	301	223	223	223
Biennial Total			952			446

Full Time Equivalent Positions (FTE)	Biennium			Biennium	
	FY2019	FY2020	FY2021	FY2022	FY2023
General Fund	-	2	1	1	1
Total	-	2	1	1	1

Executive Budget Officer's Comment

I have reviewed this fiscal note for reasonableness of content and consistency with MMB's Fiscal Note policies.

EBO Signature: Jim King Date: 2/22/2019 6:18:43 PM
 Phone: 651 201-8033 Email: jim.king@state.mn.us

State Cost (Savings) Calculation Details

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions are shown in parentheses.

*Transfers In/Out and Absorbed Costs are only displayed when reported.

State Cost (Savings) = 1-2		Biennium			Biennium	
Dollars in Thousands	FY2019	FY2020	FY2021	FY2022	FY2023	
General Fund	-	651	301	223	223	
Total	-	651	301	223	223	223
Biennial Total			952			446
1 - Expenditures, Absorbed Costs*, Transfers Out*						
General Fund	-	651	301	223	223	
Total	-	651	301	223	223	223
Biennial Total			952			446
2 - Revenues, Transfers In*						
General Fund	-	-	-	-	-	
Total	-	-	-	-	-	-
Biennial Total			-			-

Bill Description

This bill relates to the Minn. Sentencing Guidelines and Minn. Sentencing Guidelines Commission (MSGC) by amending Minn. Stat. § 244.09. Section 1 amends subdivision 5, promulgation of sentencing guidelines, paragraph (2), by requiring the Commission to establish sentencing guidelines that would establish a presumptive, fixed probation term for offenders for whom probation is proper based on each appropriate combination of reasonable offense and offense characteristics. Additionally, section 1 adds paragraph (3), which states that nothing in this section or in the guidelines promulgated by the commission preclude the court from imposing a sentence for a felony conviction that is within the limits provided by law for a misdemeanor or gross misdemeanor as defined in Minn. Stat. § 609.02. This bill amends the considerations of the commission for establishing and modifying the sentencing guidelines by adding that the commission shall also consider probation practices.

Section 2 amends subdivision 6, clearinghouse and information center, by broadening the agency’s information scope from “sentencing practices” to include “probation practices”; the existing language describing the “collection, preparation, analysis and dissemination of information on state and local sentencing practices,” is expanded to include “probation” practices. In addition to conducting ongoing research regarding “Sentencing Guidelines, use of imprisonment and alternatives to imprisonment, plea bargaining, and other matters relating to the improvement of the criminal justice system,” the clearinghouse and information center would be charged with conducting ongoing research on “probation terms, conditions of probation, probation revocations,” and “recidivism.” In addition to the Commission’s requirement to make recommendations to the Legislature on “changes in the Criminal Code, criminal procedures, and other aspects of sentencing,” the charge is extended to recommendations on aspects of “probation.”

Section 3 amends subdivision 8, administrative services, by establishing data integrations with any agency of the state, or any of its political subdivisions, to the extent authorized by law.

Assumptions

With respect to section 1, the following assumptions are made:

Research to support the development of probationary guidelines would require the MSGC to hire 1 FTE Research Analyst, temporary, FY20 only.

The resulting probationary guidelines will be implemented by probation officers and presentence investigators as part of the presentence investigation described in Minn. Stat. § 609.115.

The resulting probationary guidelines application will be implemented within the existing Electronic Worksheet System

(EWS), hosted on the Department of Corrections' (DOC) Statewide Supervision Portal. The "DOC Portal" is a secure website hosted by DOC allowing qualified criminal justice users a single sign on bringing together or aggregating access to content from a number of other DOC systems or servers. EWS is an application for preparing and monitoring the sentencing worksheets. A sentencing worksheet is a document ordered by the District Court pursuant to facilitate application of the Minnesota Sentencing Guidelines as defined by MSGC.

The initial implementation costs and ongoing maintenance costs will be borne by MSGC. Those costs are estimated, below, and detailed in the "Expenditures" section.

According to MNIT at DOC, onetime costs for the changes to EWS are estimated at \$100,000 in FY21, with an ongoing annual cost of \$22,000 thereafter. This would include creating functionality for calculating the recommended probationary sentence (i.e., Creating a new Probation Sentencing Calculator) and modifying the existing application and reports (i.e., Modifying existing EWS (add risk for separate report) and Presumptive Sentence Page).

For sections 2 and 3, the following assumptions are made:

The expansion of the staff mandate to include probation and recidivism research, study, and reporting would require 1.0 FTE Research Analysis Specialist on an ongoing basis beginning in FY20. Recidivism research would exclude juvenile cases except juveniles certified to adult court. The methodology for determining ongoing recidivism research would be defined by MSGC based on industry-standard, peer reviewed acceptable practices.

"Probation terms" refers to the length of time probationers serve on probation before discharge, and not the length of time pronounced by the Court at the initial disposition i.e., sentence, stay of imposition, stay of adjudication. Currently, MSGC has no information on how long probationers actually serve on probation before they are discharged.

"Probation revocations" are revocations to Minn. Department of Corrections for probation violations or revocations due to new misdemeanor or gross misdemeanor convictions. Probation revocations do not include new felony convictions or restructurings of the sentences not resulting in commitments to the Commissioner of Corrections. Currently, MSGC determines revocations through a manual process of matching Department of Corrections (DOC) prison admission data with MSGC sentencing data. The DOC data include admissions as a result of revocations.

Probation practices, probation terms, conditions of probation, and probation revocation data are available through a combination of Minn. Judicial Branch's Court Integration Services (MNCIS), the DOC Portal, and Court Services Tracking System (CSTS). (CSTS is described on its website as "a comprehensive yet easy to use software package designed to encompass all aspects of managing probation and parole offices." Its features are said to include complete tracking of offender demographic information and photos; offender alias tracking and searching; detailed case and court related information; tracking and reporting of conditions of probation/parole; and historical tracking of supervision levels and agent history.

It is assumed that the data will be available in a manner in which MSGC can categorize it to generate and present statistical information.

It is assumed that probation officers are currently tracking sufficient information on CSTS to generate statistical reports about probation practices; for example, changes made over time to conditions of probation.

Data used to study recidivism are available from the Minn. Department of Public Safety (DPS), Bureau of Criminal Apprehension (BCA), Criminal History System (CHS) repository in a manner in which MSGC can categorize it to generate and present statistical information. For purposes of this fiscal note, it is assumed that MSGC will use the BCA's public CHS dataset to perform its recidivism study.

According to the BCA, there are two different data sets that are used for conducting recidivism studies. The first data set is the public data described in Minn. Stat. section 13.87, subd. 1(b). This data is limited to data on adults who have been convicted and the data are public for 15 years following discharge of the sentence. This data is available once each month (run on the first Saturday) and requires a request and pre-payment of \$40 each month when the data are needed.

The second data set is the private criminal history data held by the BCA pursuant to Minn. Stat. section 13.87 (adults) and Minn. Stat. section 299C.095 (juveniles). The only way these private data are accessible to MSGC is via the summary data provision in Minn. Stat. section 13.05, subd. 7 that requires preparation of statistics from the identifiable data.

The initial implementation costs and ongoing maintenance costs of this data clearinghouse, including data integration, will be borne by MSGC. Those costs are estimated, below, and detailed in the "Expenditures" section.

According to MNIT at DOC, the onetime costs for the creation of the data clearinghouse are estimated at \$510,000 in FY20, with an ongoing annual cost of \$125,000 thereafter. This would include data integrations with MNCIS, BCA and CSTS; creating data notification “data cubes,” and six reports for data queries. This estimate includes detailed business and technical analysis, design, development, testing and project management to make the above changes.

Expenditure and/or Revenue Formula

MSGC Personnel Costs:

FY20 only, Salary/Fringe for temporary Research Analyst: \$61,000.

FY20 only, Desktop Support for temporary Research Analyst: \$1,824.

FY20 only, Office and Workstation Setup & Furnishings: \$2,500.

FY20 and thereafter, Salary/Fringe for Research Analysis Specialist: \$74,000 annually.

FY20 and thereafter, Desktop Support for Research Analysis Specialist: \$1,824 annually.

Electronic Worksheet System:

FY21 only, EWS changes: \$100,000.

FY22 and thereafter, EWS maintenance: \$22,000 annually.

These would include the following work:

- Create new Probation Sentencing Calculator
- Modifications to existing EWS (add risk for separate report)
- Presumptive Sentence Page

Detailed business and technical analysis, design, development, testing and project management to make the above changes.

Data Clearinghouse/Integration:

FY20 only, data clearinghouse creation (including \$8,000 SQL license): \$510,000.

FY21 and thereafter: data clearing house maintenance (including TEST and PROD Servers \$12,000 annually): \$125,000 annually.

These would include the following work:

- Data integrations with MNCIS, BCA and CSTS.
- Creation of 3 data cubes relating to Case Decision Notifications, Criminal History / Recidivism and Revocations / Conditions
- 6 reports for data queries
- Detailed business and technical analysis, design, development, testing and project management to make the above changes

Long-Term Fiscal Considerations

Because it is assumed that the resulting probationary guidelines will be implemented by probation officers and presentence investigators as part of the presentence investigation described in Minn. Stat. § 609.115, there will be a long-term fiscal consideration to those jurisdictions in which felony probation officers are state employees.

Local Fiscal Impact

Because it is assumed that the resulting probationary guidelines will be implemented by probation officers and presentence investigators as part of the presentence investigation described in Minn. Stat. § 609.115, there will be a local government fiscal impact to those jurisdictions in which felony probation officers are local government employees.

References/Sources

Monthly MSGC MN.IT bill

Engler, Katherine (DPS). “RE: seeking information about recidivism data at DPS.” Message to Tim Ogg (MNIT).

Denn, Ron (MNIT). “HF997 Fiscal Note.” Message to Allen Godfrey (DOC) and Diane Morel (MNIT).

Strategic Technologies. Court Services Tracking System (CSTS). 2002-2019. Retrieved Feb. 22, 2019 at <https://www.sti-software.com/Products/CSTS.aspx>.

Nishma Malla Shrestha (MNIT). "RE: EWS Description." Message to Jill Payne (MSGC).
Linda McBrayer (MSGC). "Estimates for FTE office configuration." Message to Jill Payne (MSGC).
Linda McBrayer (MSGC). "Salary source for FTE for fiscal note." Message to Jill Payne (MSGC).

Agency Contact:

Agency Fiscal Note Coordinator Signature: Anne Wall

Date: 2/22/2019 3:10:09 PM

Phone: 651 757-1721

Email: Anne.Wall@state.mn.us