

## Demographic Impact Statement

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### Senate File 2699-0

*Child pornography offenses penalties increase; reports on court-imposed stays of sentence or adjudication for sex offenses requirement; grounds that permit a parent and child to reunify after the parent sexually abuses the child restrictions authorization.*

**Statement Date: March 20, 2018**

The staff of the Minnesota Sentencing Guidelines Commission (MSGC) prepares demographic impact statements for proposed crime bills when it appears that the bill's policy changes would likely increase or decrease the number of people convicted of felonies each year by 50 or more; when it appears that the bill's policy changes would likely increase or decrease the annual need for prison beds by 10 or more; or upon legislative request.

### Bill Description

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SF 2699, as introduced, mandates that county attorneys report to the Minnesota County Attorneys Association (MCAA) on cases receiving stays of imposition or adjudication for felony first- through fifth-degree criminal sexual conduct offenses and criminal sexual predatory conduct. They must report general information, including a brief description of the facts; the prosecutor's position on the stay; and conditions of probation imposed. The MCAA is required to forward a combined report to the relevant committees by March 1 of each year.

This bill increases penalties for certain aggravated violations of use of minors in a sexual performance and child pornography offenses. The three aggravated circumstances are these: when the person has a prior conviction or delinquency adjudication for violating Minn. Stat. § 617.246 or 617.247; when the violation occurs when the person is a registered predatory offender; or when the violation involved a minor under the age of 13 years.

This bill amends Minn. Stat. § 617.246 (use of minors in sexual performance), subdivisions 2, 3, and 4 by increasing the statutory maximum sentence from ten years to 15 years when any of the three aggravated circumstances described above is present. The bill also increases the conditional release term from 10 to 15 years for this offense.

The bill amends Minn. Stat. § 617.247, subd. 3 (dissemination of child pornography - subsequent or by predatory offender) by expanding the definition of offenders to whom the 15 year statutory maximum applies (aggravated offenders). The higher statutory maximum would apply when any of the three aggravated circumstances described above is present. The bill also increases the conditional release term from 10 to 15 years for this offense.

The bill amends Minn. Stat. § 617.247, subd. 4 (possession of child pornography - subsequent or by predatory offender) by expanding the definition of offenders to whom the 10 year statutory maximum applies (aggravated offenders). The higher statutory maximum would apply when any of the three aggravated circumstances described above is present. The bill also increases the conditional release term from 10 to 15 years for this offense.

The bill directs the MSGC to comprehensively review and consider modifications to how the Guidelines and Sex offender Grid address use of minors in a sexual performance and child pornography offenses.

The bill is effective August 1, 2018, and applies to offenses committed on or after that date.

## Estimated Impact

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In its fiscal note, MSGC staff estimated that the bill will result in 58 offenders a year being sentenced for an offense at a higher severity level. Given their existing criminal history scores and departure rates, nine offenders would switch from a presumptive probation to presumptive prison disposition and nine offenders who currently receive a prison sentence would receive more time in prison. This is expected to result in the eventual need for 31 additional prison beds a year.

In making this estimate, it was assumed that the characteristics of offenders sentenced in the future for use of minors in a sexual performance and child pornography offenses will be the same as the characteristics of offenders sentenced for those offenses in 2016.

## Current State Demographics

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Table 1, shown on page 3, below, displays current demographic information pertaining to three populations within the state: the felony population (that is, the population of offenders sentenced for felony offenses in 2016); the adult prison population (as of July 1, 2016); and the general population, age 15 and older (on July 1, 2016, as estimated by the U.S. Census Bureau).

Table 1 breaks down those populations by the following demographic categories: Gender; race and ethnicity; and judicial district. A map of Minnesota's ten judicial districts may be found at <http://www.mncourts.gov/Find-Courts.aspx>.

## Demographic Impact

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### Demographic Characteristics – New Felony Population

No change is estimated to occur in the population of felons sentenced as a result of this bill. No change in the demographic composition of the felony population is therefore estimated.

### Demographic Characteristics – New Prison Population

It is estimated that the bill will result in 18 offenders expected to occupy an additional 31 prison beds. If the bill's provisions had been in effect for offenders sentenced in 2016, it is estimated that the demographic characteristics of the occupants of those prison beds would have been as follows:

- **Gender:** Male (100%); and Female (0%).
- **Race & Ethnicity:** White (100%); Black (0%); American Indian (0%); Hispanic (0%); Asian (0%); and Other/Unknown (0%).
- **Judicial District:** First (33%); Second (11%); Third (0%); Fourth (6%); Fifth (11%); Sixth (6%); Seventh (11%); Eighth (0%); Ninth (0%); and Tenth (22%).

It may be assumed that the demographic characteristics of the offenders sentenced in the future will be similar to the demographic characteristics of those offenders sentenced in 2016. If so, we would expect that the occupants of the estimated 31 additional prison beds would share similar demographic characteristics with those characteristics listed in the preceding paragraph. Table 2, below, shows the demographic change in prison population that would result from the enactment of this bill, assuming that future offenders' demographic characteristics are similar to those of offenders sentenced in 2016.

*Table 1. Minnesota's 2016 Felony Population, Prison Population, and General Population, by Gender, Race and Ethnicity, and Judicial District*

	Felony Population			Prison Population		General Population		
	MSGC Category	Offenders Sentenced in 2016		2016 Adult Inmate Population		U.S. Census Category	2016 Estimated Pop. Age 15 & Older	
		Number	Percent	Number	Percent		Number	Percent
	Male	13,702	80.9%	9,384	92.8%	Male	2,199,515	49.5%
	Female	3,225	19.1%	730	7.2%	Female	2,247,439	50.5%
Race & Ethnicity	White	9,813	58.0%	4,711	46.6%	White*	3,763,894	84.6%
	Black	4,209	24.9%	3,537	35.0%	Black or African American*	263,625	5.9%
	American Indian	1,472	8.7%	960	9.5%	American Indian*	69,224	1.6%
	Hispanic**	903	5.3%	631	6.2%	Hispanic**	193,435	4.3%
	Asian	525	3.1%	259	2.6%	Asian*	221,996	5.0%
	Other/Unknown	5	0.0%	16	0.2%	Native Hawaiian/Other Pacific Islander*	4,781	0.1%
Judicial District	First	2,192	12.9%	870	8.7%	First	621,377	14.0%
	Second	1,784	10.5%	1,389	13.9%	Second	433,849	9.8%
	Third	1,344	7.9%	767	7.7%	Third	384,440	8.6%
	Fourth	3,341	19.7%	2,599	26.0%	Fourth	1,002,248	22.5%
	Fifth	1,075	6.4%	441	4.4%	Fifth	233,217	5.2%
	Sixth	862	5.1%	556	5.6%	Sixth	210,929	4.7%
	Seventh	1,689	10.0%	1,052	10.5%	Seventh	390,911	8.8%
	Eighth	432	2.6%	302	3.0%	Eighth	129,504	2.9%
	Ninth	1,688	10.0%	1,017	10.2%	Ninth	274,234	6.2%
	Tenth	2,520	14.9%	1,014	10.1%	Tenth	766,245	17.2%
	<b>Total</b>	<b>16,927</b>	<b>100.0%</b>	<b>10,114</b>	<b>100.0%</b>	<b>Total</b>	<b>4,446,954</b>	<b>100.0%</b>

Source of July 1, 2016, Adult Inmate Population: Minn. Department of Corrections. Judicial district populations exclude 107 inmates whose governing sentences were for offenses committed in non-Minnesota jurisdictions.

Source of July 1, 2016, population estimate: U.S. Census Bureau (June, 2017).

\*Not Hispanic, alone or in combination with one or more other races. The sum of percentages of residents in each racial or ethnic category exceeds 100 percent (101.6%) because residents of more than one race are counted in more than one category.

\*\* Lists all Hispanic offenders and residents as Hispanic, regardless of race.

\*\*\*The MSGC category of "Other/Unknown" is not a valid comparison group to the U.S. Census category of "Native Hawaiian/Other Pacific Islander."

**Table 2. Minnesota’s Existing Prison Population, Estimated Prison Population Change, and Estimated Resulting Prison Population, by Gender, Race and Ethnicity, and Judicial District**

Existing Prison Population			Estimated Change in Prison Population		Estimated Resulting Prison Population			
MSGC Category	2016 Adult Inmate Population		Assuming future offenders’ demographic characteristics are similar to those of offenders sentenced in 2016		Assuming future offenders’ demographic characteristics are similar to those of offenders sentenced in 2016			
	Number	Percent	Number	Percent	Number	Percent	% Point Change	
Male	9,384	92.8%	+31	100%	9,415	92.8%		
Female	730	7.2%			730	7.2%		
Race & Ethnicity	White	4,711	46.6%	+31	100%	4,742	46.7%	+0.2%
	Black	3,537	35.0%			3,537	34.9%	-0.1%
	American Indian	960	9.5%			960	9.5%	
	Hispanic**	631	6.2%			631	6.2%	
	Asian	259	2.6%			259	2.6%	
	Other/Unknown	16	0.2%			16	0.2%	
Judicial District	First	870	8.7%	+10	33%	880	8.8%	+0.1%
	Second	1,389	13.9%	+3	11%	1,392	13.9%	
	Third	767	7.7%			767	7.6%	
	Fourth	2,599	26.0%	+2	6%	2,601	25.9%	
	Fifth	441	4.4%	+3	11%	444	4.4%	
	Sixth	556	5.6%	+2	6%	558	5.6%	
	Seventh	1,052	10.5%	+3	11%	1,055	10.5%	
	Eighth	302	3.0%			302	3.0%	
	Ninth	1,017	10.2%			1,017	10.1%	
	Tenth	1,014	10.1%	+7	22%	1,021	10.2%	
<b>Total</b>	<b>10,114</b>	<b>100.0%</b>	<b>+31</b>	<b>100%</b>	<b>10,145</b>	<b>100.0%</b>		

Source of July 1, 2016, Adult Inmate Population: Minn. Dep’t of Corrections. Judicial district populations exclude 107 inmates whose governing sentences were for offenses committed in non-Minnesota jurisdictions.

\*\* Lists all Hispanic offenders and residents as Hispanic, regardless of race.