

Staff Issue Paper

Guidelines Implications of HF167/SF371 (Making Presentence Investigation Reports Optional)

February 2, 2021

The 92nd Minnesota Legislature has introduced [House File 167](#), and its Senate companion, [Senate File 371](#). As introduced, this bill would make presentence investigations (PSIs) optional, at the discretion of the sentencing court or the prosecutor.

Guidelines Implications

Of particular concern are the bill's changes to Minn. Stat. § 609.115, subd. 1(e) (lines 2.30–2.33 of the bill):

(e) When a defendant has been convicted of a felony, and before sentencing, the court shall cause a sentencing worksheet to be completed to facilitate the application of the Minnesota Sentencing Guidelines. The worksheet shall be submitted as part of the presentence investigation report, if a presentence investigation and report are requested.

Although the first sentence of subd. 1(e) would continue to require completion of sentencing worksheets in all felony cases, the second sentence would make the submission of such worksheets to the court contingent upon completion of the now-optional PSI report. In other words, submission of sentencing worksheets to the court would become optional. This change would foreseeably decrease the number of completed sentencing worksheets received by MSGC staff.

This is concerning to staff. For the Commission to be able to accomplish its mission as a clearinghouse and information center for sentencing practices data, MSGC staff must have access to sentencing worksheets in all felony cases statewide. Even under the current law—in which submission of sentencing worksheets is clearly mandatory in all felony cases—staff wastes too much time chasing down missing sentencing worksheets. In some cases, these missing worksheets need to be created after-the-fact by probation officers, or, in worst cases, by MSGC staff themselves (although MSGC-created worksheets are the least likely to be reliable).

This document was prepared by the staff of the Minnesota Sentencing Guidelines Commission for the Commission's review. This document has not been adopted by the Commission and does not necessarily represent its views.

Of even greater concern, missing worksheets may result in a misunderstanding by the sentencing court of the presumptive sentence, which may result in sentencing errors and inadvertent departures.

Staff Request

Staff asks the Commission to authorize staff to advocate that the Legislature modify the bill language so that the creation and submission of the sentencing worksheet would remain mandatory in all felony cases.