

## Staff Information Paper

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# Proposed Omnibus Public Safety Bills

April 7, 2021

This staff paper highlights aspects of the House and Senate omnibus public safety bills, as proposed by the respective chairs of the [House](#) and [Senate](#) public safety committees, that staff considers likely to be of greatest interest to the Commission. At the time of this writing, neither proposed omnibus bill had received final committee approval. The [agreed-upon deadline](#) for such action is April 9, 2021.

## Omnibus bill comparison

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The following table compares select provisions of the two proposed omnibus bills. In this table, “House” refers to the [DE-3 amendment](#) to [House File 1078](#); and “Senate” refers to the [A-1 amendment](#), as potentially amended by the [A-2 amendment](#), to [Senate File 970](#). Similar provisions that appear in both omnibus bills are highlighted.

All analysis is preliminary and may contain errors. All bills are subject to change before committee approval.

Topic	House	Senate	MSGC-Estimated Eventual Prison Bed Cost (+) or Savings (-)
<b>MSGC AGENCY &amp; MISSION</b>			
MSGC agency funding	<ul style="list-style-type: none"> <li>Fully funds agency at Governor’s request</li> <li>Adds new MSGC employee (Research Analysis Specialist) for probation &amp; recidivism research (<a href="#">HF 1374</a>)</li> </ul>	<ul style="list-style-type: none"> <li>Fully funds agency at Governor’s request</li> </ul>	

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*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.*

Topic	House	Senate	MSGC-Estimated Eventual Prison Bed Cost (+) or Savings (-)
Guidelines amendments	<ul style="list-style-type: none"> <li>Defines “public safety” — MSGC’s primary Guidelines amendment consideration—to include human rights concerns (<a href="#">HF 2433</a>)</li> </ul>		
Clearinghouse & information center	<ul style="list-style-type: none"> <li>MSGC mission to include probation &amp; recidivism information (<a href="#">HF 1374</a>)</li> </ul>		
<b>SPECIFIC CRIMES</b>			
Felony murder	<ul style="list-style-type: none"> <li>Establishes task force on aiding &amp; abetting felony murder</li> <li>Members include MSGC executive director (<a href="#">HF 1162</a>)</li> </ul>		
Child torture		<ul style="list-style-type: none"> <li>Creates a 25-year felony for the crime of child torture (<a href="#">SF 868</a>)</li> </ul>	+2 beds
Bias crimes	<ul style="list-style-type: none"> <li>Adds protected categories to those protected by various bias crimes</li> <li>Protects actual or perceived association with a member of a protected category among various bias crimes (<a href="#">HF 1691</a>)</li> </ul>		Negligible

Topic	House	Senate	MSGC-Estimated Eventual Prison Bed Cost (+) or Savings (-)
Criminal Sexual Conduct (CSC)	<ul style="list-style-type: none"> <li>• Redefines “mentally incapacitated” to cover voluntary intoxication rendering a person incapable of consenting or incapable of appreciating, understanding, or controlling one’s conduct</li> <li>• Increases victim’s age in 1st &amp; 2nd Degree CSC offenses from “under 13” to “under 14”</li> <li>• Moves “force” offenses from 3rd/4th Degree CSC to 1st/2nd Degree CSC if bodily harm (including physical pain) is inflicted</li> <li>• Reduces age gap for statutory rape cases from 4 years to 3 years</li> <li>• Limits the mistake-of-age defense age window</li> <li>• Reorganizes CSC statutes</li> <li>• Separates adult from child victims</li> <li>• Establishes occupational-relationship offenses</li> <li>• New occupational-relationship offenses protect adult high school students and facility residents</li> </ul>	<ul style="list-style-type: none"> <li>• Redefines “mentally incapacitated” to cover voluntary intoxication rendering a person incapable of consenting or incapable of appreciating, understanding, or controlling one’s conduct (<a href="#">SF 1683</a>) (assumes adoption of <a href="#">A-2 amendment</a>)</li> </ul>	<p>House: +234 beds</p> <p>Senate: +14 beds</p>

Topic	House	Senate	MSGC-Estimated Eventual Prison Bed Cost (+) or Savings (-)
	<ul style="list-style-type: none"> <li>• New felony 5th Degree CSC for nonconsensual sexual penetration</li> <li>• New sexual extortion offense (<a href="#">HF 707</a>)</li> </ul>		
Statutes of limitations	<ul style="list-style-type: none"> <li>• Eliminates the statute of limitations for sex trafficking and CSC offenses (<a href="#">HF 1121</a>)</li> </ul>		+7 beds
Sex trafficking	<ul style="list-style-type: none"> <li>• Increases maximum penalties for sex trafficking and prostitution offenses</li> <li>• Includes sex trafficking among violent crimes eligible for dangerous/repeat sentencing enhancements</li> <li>• Requires MSGC to reconsider how the Guidelines address sex trafficking (<a href="#">HF 613</a>)</li> </ul>	<ul style="list-style-type: none"> <li>• Increases maximum penalties for sex trafficking and prostitution offenses</li> <li>• Includes sex trafficking among violent crimes eligible for dangerous/repeat sentencing enhancements</li> <li>• Requires MSGC to reconsider how the Guidelines address sex trafficking (<a href="#">SF 765</a>)</li> </ul>	+16 beds
Sexual solicitation of children	<ul style="list-style-type: none"> <li>• Increases maximum penalties for Solicitation of Children to Engage in Sexual Conduct (<a href="#">HF 613</a>)</li> </ul>	<ul style="list-style-type: none"> <li>• Increases maximum penalties for Solicitation of Children to Engage in Sexual Conduct (<a href="#">SF 765</a>)</li> </ul>	+1 bed
Child pornography		<ul style="list-style-type: none"> <li>• Directs MSGC to increase severity levels assigned to child pornography possession and dissemination when sentencing-enhancing factors are present (per</li> </ul>	+55 beds

Topic	House	Senate	MSGC-Estimated Eventual Prison Bed Cost (+) or Savings (-)
		MSGC minority report) ( <a href="#">SF 1457</a> )	
Predatory Offenders	<ul style="list-style-type: none"> <li>Establishes Predatory Offender Statutory Framework Working Group</li> <li>Commissioner of Public Safety to invite one representative from MSGC (<a href="#">HF 707</a>)</li> </ul>		
<b>SENTENCING</b>			
Defendants with disability	<ul style="list-style-type: none"> <li>Requires court to consider impact of defendant's disability when imposing sentence (<a href="#">HF 1082</a>)</li> </ul>		Unable to estimate impact
Defendants with brain injury	<ul style="list-style-type: none"> <li>Requires court to ask about defendant's history of stroke, traumatic brain injury, or fetal alcohol spectrum disorder</li> <li>When such a history is present, court must order neuropsychological exam (<a href="#">HF 856</a>)</li> </ul>		Unable to estimate impact
Veterans Restorative Justice Act	<ul style="list-style-type: none"> <li>Requires stays of adjudication for most crimes if committed due to a mental health condition caused by military service</li> <li>Establishes criteria for discharge and dismissal at the end of probation</li> </ul>		-53 beds

Topic	House	Senate	MSGC-Estimated Eventual Prison Bed Cost (+) or Savings (-)
	<ul style="list-style-type: none"> <li>Establishes a mitigated departure basis (<a href="#">HF 478</a>)</li> </ul>		
Presentence investigations (PSIs) & conditions of probation	<ul style="list-style-type: none"> <li>Establishes task force on the contents and use of PSIs and imposition of conditions of probation</li> <li>Members include MSGC chair (<a href="#">HF 167</a>)</li> </ul>		
<b>PROBATION</b>			
Tribal correctional supervision	<ul style="list-style-type: none"> <li>Establishes working group to prepare for tribal correctional supervision (<a href="#">HF 1641</a>)</li> </ul>		
Probation revocation	<ul style="list-style-type: none"> <li>Probation revocation to be a “last resort”</li> <li>Revocations for certain minor, first-time violations limited (<a href="#">HF 1761</a>)</li> </ul>		Unable to estimate impact
<b>PRISON</b>			
Minn. Rehabilitation & Reinvestment Act	<ul style="list-style-type: none"> <li>Earned incentive release credit: Up to 17% reduction in term of imprisonment for finishing program objectives</li> <li>Earned compliance credit: One month supervised release reduction for two months’ compliance with supervision plan (<a href="#">HF 2349</a>)</li> </ul>		

Topic	House	Senate	MSGC-Estimated Eventual Prison Bed Cost (+) or Savings (-)
Indeterminate Sentencing Release Board	<ul style="list-style-type: none"> <li>Supervised released decisions to be made by 5-member board (<a href="#">HF 1369</a>)</li> </ul>		
Pregnant & postpartum prisoners	<ul style="list-style-type: none"> <li>DOC authorized to conditionally release pregnant &amp; postpartum prisoners (<a href="#">HF 1403</a>)</li> </ul>	<ul style="list-style-type: none"> <li>DOC authorized to conditionally release pregnant &amp; postpartum prisoners (<a href="#">SF 1315</a>)</li> </ul>	
Private prisons	<ul style="list-style-type: none"> <li>Inmates may not be housed in private prisons (<a href="#">HF 1074</a>)</li> </ul>		
<b>POST-SENTENCE</b>			
Prosecutor-initiated sentence adjustments	<ul style="list-style-type: none"> <li>Permits prosecutors, post-sentencing, to petition court for mitigated sentence adjustment</li> <li>Adjustment is based on substantial and compelling reasons</li> <li>MSGC must analyze such adjustments in its annual report (<a href="#">HF 901</a>)</li> </ul>		
Clean Slate Act	<ul style="list-style-type: none"> <li>Establishes an automatic expungement process for certain offenses</li> <li>Expands the list of crimes eligible through the petition process (<a href="#">HF 1152</a>)</li> </ul>		