

Sentencing Guidelines Comprehensive Review

Impact of Commission's Legislative Recommendations

October 30, 2025

The following is an estimated impact of the staff-inferred 2026 legislative recommendations: alone and in conjunction with the Commission's comprehensive review ("consensus policy package") voted on October 9, 2025.

As with a fiscal note prepared for the Legislature, staff's estimate of prison beds needed—or avoided—is built atop many assumptions, most of which this paper will not recite.¹

Prison-Bed Impact of Staff-Suggested Legislative Recommendations

Table 1 (p. 2) lists the recommendations to the Legislature discussed at the Commission's October meeting.

Standing alone, staff estimates that the eventual net prison-bed impact of these legislative recommendations, if enacted, would be to require the eventual need for **three additional prison beds**. This new bed cost is caused by the creation of a severity-level (SL) 8 penalty tier for impaired drivers with qualifying driving records who cause great bodily harm (recommendation no. 1), and assumes that the Commission would rank the enhanced penalty tier at SL 8.

Taken together with the Commission's recommendations, if adopted and permitted to take effect, the Legislative recommendations will have a greater effect. Recall that the consensus policy package (without the legislative recommendations) would eventually avoid the need for 875 prison beds.² Including the three prison beds discussed above, the enactment of the legislative recommendations **would offset this reduced prison-bed need by 41 beds, resulting in 834 net prison beds avoided**. This offset is primarily due to the tendency of the creation of a SL 9 penalty tier for intentionally inflicting great bodily harm (recommenda-

¹ The chief of these assumptions is that everyone sentenced to an executed prison sentence will serve two-thirds of that sentence. Staff does not factor in early-release programs or jail credit, on one hand, nor revoked sentences, on the other—some of which would require speculation on our part. Thus, if a policy causes one person annually to be sentenced to eighteen months' imprisonment (two-thirds of which is one year), then that policy would require one "estimated prison bed."

² Minn. Sent'g Guidelines Comm'n, Sentencing Guidelines Comprehensive Review: Impact of September Consensus Policy Package (Oct. 2, 2025), https://mn.gov/sentencing-guidelines/assets/5C-Staff-SeptPolicyPackageImpact_tcm30-708509.pdf.

tion no. 3) to cancel most of the bed savings caused by reducing the severity ranking of first-degree assault resulting in great bodily harm to SL 8.

Table 1. List of Legislative Recommendations Discussed in October.

No.	Recommendation	Impact Estimated?	Demographic Impact Possible?
1	Add a 10-year penalty tier for impaired drivers who inflict great bodily harm; MSGC intends to rank at severity level 8.	Yes	No
2	Apply various DWI pretrial-release and penalty provisions to substance-related criminal vehicular offenses.	Yes, no impact ³	Yes, no impact
3	Establish a 20-year penalty tier for first-degree assault by intentionally inflicting great bodily harm; MSGC intends to rank at severity level 9.	Yes	Yes
4	Amend Minn. Stat. § 609.02 to define “demonstrable bodily harm” as the court of appeals has done: “bodily harm that is capable of being perceived by another.”	Yes, no impact	Yes, no impact
5	Recommended Changes to Statutory Maximum Penalties:		
5.1	Criminal Vehicular Operation (Great Bodily Harm) – Minn. Stat. § 609.2113, subd. 1 – from 5 to 7 years.	Yes	No
5.2	Assault 1st Degree (Assault Resulting in Great Bodily Harm) – Minn. Stat. § 609.221, subd. 1 – from 20 to 15 years.	Yes	Yes
5.3	Criminal Vehicular Operation (Great Bodily Harm) – Minn. Stat. § 609.2113, subd. 1 – from 5 to 7 years.	Yes	Yes
5.4	Assault 4th Degree – Minn. Stat. § 609.2231 – to 3 years for all felonies.	Yes	Yes, but limited

³ While the expanded application of a five-year conditional release term to some criminal vehicular offenses may lead to revocation of that conditional release, and thus may have an eventual prison-bed impact, MSGC staff considers such effects to be secondary impacts, which the Legislative Budget Office excludes from fiscal-note consideration. See also footnote 1, above.

No.	Recommendation	Impact Estimated?	Demographic Impact Possible?
5.5	Domestic Assault by Strangulation – Minn. Stat. § 609.2247 – from 3 to 5 years.	Yes	Yes, but limited
5.6	Criminal Sexual Conduct 5th Degree (Nonconsensual Penetration) – Minn. Stat. § 609.3451, subd. 3(a) – from 2 to 4 years.	Yes	Yes

As stated, above, it is estimated that there will be an eventual need for **834 fewer prison beds**: 609 fewer beds as a result of an estimated 409 people moving from prison to probation; 13 more beds as a result of an estimated 10 people moving from probation to prison; 364 fewer beds as a result of an estimated 866 people serving shorter prison sentences; and 125 more beds as a result of an estimated 379 people serving longer prison sentences (Table 2).

Table 2. Estimated Prison-Bed Change.

Change	Number of People	Beds	Percent of Estimated Prison-Bed Sum
Was prison, now new probation	409	-609	-69.3%
Was probation, now new prison	10	13	1.5%
Was prison, now shorter duration	866	-364	-41.4%
Was prison, now longer duration	379	125	14.2%
Total	1,664	-834	100.0%

The timing of avoided prison beds is displayed below (Table 3).

Table 3. Estimated Prison-Bed Timing.

Fiscal Year	Estimated Prison-Bed Timing	Fiscal Year	Estimated Prison-Bed Timing	Fiscal Year	Estimated Prison-Bed Timing
2027	-201	2037	-795	2047	-845
2028	-555	2038	-803	2048	-844
2029	-634	2039	-812	2049	-843
2030	-698	2040	-819	2050	-843
2031	-730	2041	-825	2051	-841
2032	-747	2042	-830	2052	-838
2033	-756	2043	-838	2053	-835
2034	-766	2044	-841	2054	-834
2035	-777	2045	-844		
2036	-788	2046	-848		

Local Government Fiscal Impact

Because fewer people are expected to go to prison in the future, it is also estimated that there will be some impact on local correctional confinement usage and supervision caseloads. As stated above, it is estimated that 409 people a year will move from prison to probation. These people are expected to require felony supervision, and a portion will require local confinement as a condition of felony probation.

It is estimated that 249 of the 409 people (60.9%) will receive local confinement as a condition of probation.⁴ Using an average pronounced local confinement rate of 88 days (2/3 term= 59 days),⁵ will result in a need for an estimated need for 40 local beds a year statewide beginning in fiscal year 2027.⁶

⁴ In 2023, the 60.9% of people served local confinement as a condition of a stayed (probationary) sentence. Minnesota Sentencing Guidelines Commission. (2023). 2023 Sentencing Practices Report: Summary statistics for felony cases (Table 2, p. 23). https://mn.gov/sentencing-guidelines/assets/2023_MSGC_Annual_Summary_Statistics_tcm30-680133.pdf.

⁵ In 2023, the average amount of local confinement pronounced as a condition of felony probation was 88 days. (2023). 2023 Sentencing Practices Report: Summary statistics for felony cases (Figure 14, p. 25). https://mn.gov/sentencing-guidelines/assets/2023_MSGC_Annual_Summary_Statistics_tcm30-680133.pdf.

⁶ 249 cases × 59 days=14,691 “jail days” ÷ 365= 40 local beds.

Demographic Impact of Policies Analyzed – Limited Estimate

The Commission’s [Demographic Impact Statement \(DIS\) Policy](#) prohibits staff from making a demographic-impact estimate that lacks foundational reliability. Additionally, a DIS is performed only when a policy indicates that there would be an increase or decrease of 10 or more prison beds. No DIS was made on the legislative recommendations alone because it is estimated to be **three prison beds**.

A DIS was made on the combined legislative recommendations and consensus policy package. As with the consensus policy package, those legislative recommendations lacking foundational reliability for a DIS are indicated by a “no” in the “Demographic Impact Possible?” column of Table 1.

As a result, **16 prison beds are omitted** from the demographic-impact analysis that follows. While the total package is estimated to avoid the need for 834 prison beds, those portions of policies for which a **demographic-impact analysis is possible avoid the need for 850 prison beds**.

Due to this omission, the reader should keep in mind the fact that the demographic information of the occupants of 16 prison beds is missing from the following analysis.

Criminal Background Quadrants

In addition to MSGC’s standard demographic analysis of the people who would have occupied those 850 prison beds (by gender, race/ethnicity, and geography), this paper will also provide some information about the estimated criminal background of the people who would have occupied those 850 beds. For this purpose, people in prison are divided into four simple quadrants, based on whether the person’s offense of imprisonment was a person offense, and whether the person’s sentencing worksheet reflected at least one prior person offense. These quadrants are illustrated in Figure 1:

Figure 1. Illustration of Criminal Background Quadrants.

Current Person Offense/ Person-Offense History	Current Person Offense/ No Person-Offense History
Non-Person Current Offense/ Person-Offense History	Non-Person Current Offense/ No Person-Offense History

Current State Demographics

Table 2 displays 2023 demographic information pertaining to three populations within the state: the adult population (on July 1, 2023, as estimated by the U.S. Census Bureau); the annual felony population (that is, the population of people sentenced for felony offenses in 2023); and the adult prison population (as of July 1, 2023). Table 2 breaks down those populations by three demographic categories: Gender; race and ethnicity; and judicial district.

Table 4. Minnesota's 2023 General Adult Population, Annual Felony Population, and Prison Population, by Gender, Race and Ethnicity, and Judicial District.

General Adult Population				Annual Felony Population			Prison Population	
U.S. Census Category	2023 Estimated Adult Population		MSGC Category	People Sentenced in 2023			2023 Adult Inmate Population	
	Number	Percent		Number	Percent		Number	Percent
Male	2,210,490	49.8	Male	13,017	81.2		7,674	92.7
Female	2,226,491	50.2	Female	3,007	18.8		600	7.3
White*	3,632,563	81.9	White	8,397	52.4		3,789	45.8
Black or African American*	322,930	7.3	Black	4,673	29.2		3,069	37.1
American Indian*	68,788	1.6	American Indian	1,468	9.2		757	9.1
Hispanic**	240,040	5.4	Hispanic**	1,021	6.4		418	5.1
Asian/Pacific Islander*	253,216	5.7	Asian	464	2.9		224	2.7
--	--	--	Other/Unknown***	1	0.0		17	0.2
Judicial District	First	641,465	14.5	First	1,993	12.4	683	8.3
	Second	413,891	9.3	Second	1,761	11.0	937	11.3
	Third	381,574	8.6	Third	1,086	6.8	610	7.4
	Fourth	989,486	22.3	Fourth	2,890	18.0	2,087	25.2
	Fifth	223,908	5.0	Fifth	891	5.6	458	5.5
	Sixth	206,288	4.6	Sixth	708	4.4	461	5.6
	Seventh	388,008	8.7	Seventh	1,796	11.2	958	11.6
	Eighth	123,803	2.8	Eighth	546	3.4	263	3.2
	Ninth	268,595	6.1	Ninth	1,715	10.7	885	10.7
	Tenth	799,963	18.0	Tenth	2,642	16.5	841	10.2
Total		4,436,981	100.0	Total	16,024	100.0	8,274	100.0

Source of July 1, 2023, population estimate: U.S. Census Bureau. Source of July 1, 2023, adult inmate population: Minn. Department of Corrections. Felony population total excludes 4 corporate defendants. Judicial district populations exclude 91 inmates whose governing sentences were for offenses committed in non-Minnesota jurisdictions.

*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 (101.8%) because residents of more than one race are counted in more than one category.

**This table lists all Hispanic people as Hispanic, regardless of race.

See <https://mncourts.gov/find-courts/district-courts> for a map of Minnesota's ten judicial districts.

Demographic Characteristics – Reduced Prison Population

As stated earlier, MSGC staff estimates that those policies for which a demographic-impact analysis is possible would eventually **avoid the need for 850 prison beds**.

One might assume that, in the future, the demographic characteristics of the people who would have occupied the 850 prison beds not needed because of these policies will be the same as the known demographic characteristics of the people whose case data was used to estimate the bed impact of these policies. If that assumption is accurate, it is estimated that the demographic characteristics of occupants of the 850 prison beds reduced by these policies would be as follows.

- Gender: Male (92.9%); Female (7.1%).
- Race & Ethnicity: White (47.1%); Black (32%); American Indian (11.3%); Hispanic (6.4%); Asian (3.1%).
- Judicial District: First (9.2%); Second (12.4%); Third (6.1%); Fourth (17.3%); Fifth (6.5%); Sixth (3.8%); Seventh (12.9%); Eighth (5.9%); Ninth (15.0%); and Tenth (10.7%).

Table 5, on page 8, shows the demographic change in the prison bed population that would result from the implementation of those policies for which a demographic-impact analysis is possible, if the assumption stated above is accurate.

Applying the same assumption, it is estimated that the criminal backgrounds of the occupants of the 850 prison beds reduced by these policies would be as follows.

- Current person offense/person-offense history: –229.4 beds (27.0%) (compared with an estimated 22.2% of the non-lifer population).
- Current person offense/no person-offense history: –91.2 beds (10.7%) (compared with an estimated 29.5% of the non-lifer population).
- Non-person current offense/person-offense history: –260.1 beds (30.6%) (compared with an estimated 19.8% of the non-lifer population).
- Non-person current offense/no person-offense history: –269.7 beds (31.7%) (compared with an estimated 28.6% of the non-lifer population).

Table 5. Minnesota's Existing Prison Population, Estimated Change in Prison Beds Due to Selected Proposed Policy Changes, and Estimated Resulting Prison Population, by Gender, Race and Ethnicity, and Judicial District

		Prison Population			Estimated Change in Prison Beds Needed*		Estimated Resulting Prison Population*						
		2023 Adult Inmate Population											
		MSGC Category	No.	%	Rate per 100,000†	Beds	%	No.	%	%-point change rela- tive to other categories**	Estimated resulting rate per 100,000*†	Change in rate per 100,000	% change from existing prison pop.
Race & Ethnicity		Male	7,674	92.75	347	-790.1	92.9	6,884	92.7		311	-36	-10.3
		Female	600	7.25	27	-60.4	7.1	540	7.3		24	-3	-10.1
		White	3,789	45.8	104	-400.6	47.1	3,388	45.64	-0.1	93	-11	-10.6
		Black	3,069	37.1	950	-272.2	32.0	2,797	37.68	+0.6	866	-84	-8.9
		American Indian	757	9.1	1,100	-96.1	11.3	661	8.9	-0.2	961	-140	-12.7
		Hispanic	418	5.05	174	-54.4	6.4	364	4.90	-0.2	151	-23	-13.0
		Asian	224	2.7	88	-26.4	3.1	198	2.7		78	-10	-11.8
Judicial District		First	683	8.25	106	-78.2	9.2	605	8.15	-0.1	94	-12	-11.5
		Second	937	11.3	226	-105.5	12.4	832	11.2	-0.1	201	-25	-11.3
		Third	610	7.4	160	-51.9	6.1	558	7.5	+0.1	146	-14	-8.5
		Fourth	2,087	25.22	211	-147.1	17.3	1,940	26.13	+0.9	196	-15	-7.1
		Fifth	458	5.5	205	-55.3	6.5	403	5.4	-0.1	180	-25	-12.1
		Sixth	461	5.6	223	-32.3	3.8	429	5.8	+0.2	208	-16	-7.0
		Seventh	958	11.6	247	-109.7	12.9	848	11.4	-0.2	219	-28	-11.5
		Eighth	263	3.2	212	-50.2	5.9	213	2.9	-0.3	172	-41	-19.1
		Ninth	885	10.7	329	-127.6	15.0	757	10.2	-0.5	282	-47	-14.4
		Tenth	841	10.16	105	-91.0	10.7	750	10.10	-0.1	94	-11	-10.8
		Total	8,274	100	186	-850.5	100.0	7,424	100.0		167	-19	-10.3

* This table's projections assume that the demographic characteristics of people sentenced in the future will be similar to the characteristics of people sentenced in the past, as stated on page 7. The accuracy of these projections will therefore vary according to the accuracy of this assumption.

† Rate per 100,000 adult residents, as shown on Table 1, "General Population" (2023 U.S. Census Bureau Estimate).

** I.e., the expected change, in percentage points, of the category's share of the annual prison population relative to the other demographic categories.