

Sentencing Guidelines Comprehensive Review

Impact of September Consensus Policy Package

October 2, 2025

At its special meeting on August 13, 2025, the Commission discussed several possibilities for changing Sentencing Guidelines policy. Although no formal votes were taken, a consensus policy package preliminarily emerged. At its meeting on September 11, 2025, the Commission further discussed the policies and asked staff to refine its work to reflect the impact of the interplay between policy proposals.

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 Policies Analyzed

Table 1 is a list of the policies in the staff-inferred consensus policy package. Due to time and resource limitations or challenges with crafting valid assumptions, staff did not estimate the prison-bed impact of all policies in the package; those are indicated with a “No” in the “Impact Estimated?” column.

Staff estimates that some of the policies in the package will avoid the need for prison beds now required, while other policies will require prison beds not now needed. Accounting for these offsetting tendencies, staff estimates that the eventual net effect of the consensus policy package will be to **avoid the need for 875 prison beds**.

Table 1. List of Policies in Consensus Policy Package.

No.	Policy	Impact Estimated?	Demographic Impact Possible?
A.1	Change the felony decay period from 15 to 10 years	Yes	Yes
A.2	Convert custody status to a durational increase	Yes	Yes

¹ Our chief assumption is that everyone sentenced to an executed prison sentence will serve two-thirds of that sentence. We do 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.”

No.	Policy	Impact Estimated?	Demographic Impact Possible?
A.3(a)	Change the misdemeanor decay period from 10 to 7 years	Yes	Yes
A.3(b)	Eliminate 2.B.3.g (more than one misdemeanor unit & double weight for prior non-felony DWI)	Yes	Yes
A.3(b)	Delete 2.B.6.b (now-redundant provision)	Yes	Yes
A.3(b)	Delete 2.B.6.c (special rule for counting prior non-felony DWI when current offense is a second felony DWI)	No	No
A.4	Eliminate juvenile points from the criminal history score	Yes	Yes
B.1	Uprank Assault 2 – Substantial Bodily Harm (SBH) from SL 6 to SL 7	Yes	Yes
B.2	Uprank Criminal Vehicular Operation (CVO) – Great Bodily Harm (GBH) & Gross Negligence from SL 5 to SL 6	Yes	Yes
B.2	Uprank CVO – GBH & While Impaired from SL 5 to SL 6	Yes	Yes
B.3(a)	Uprank Assault 3 – SBH from SL 4 to SL 5	Yes	Yes, but limited
B.3(b)	Uprank Domestic Assault by Strangulation from SL 4 to SL 5	Yes	Yes, but limited
B.4	Uprank Assault 4-Peace Officer, Firefighter, EMS, Corrections, Prosecutors, Judges, Probation, and Secure Treatment Facility from SL 1 to SL 3	Yes	Yes, but limited
B.4	Uprank Assault 4 – Bias from SL 1 to SL 3	Yes	Yes, but limited
B.5	Uprank Criminal Vehicular Homicide – While Impaired & Qualifying Prior from SL 8 with modifier to unmodified SL 9	Yes	Yes

No.	Policy	Impact Estimated?	Demographic Impact Possible?
B.6	Downrank Assault 1 – GBH from SL 9 to SL 8	Yes	Yes
C.1	Clarify Guidelines’ purpose and principles	Yes	Yes
C.2	Specify state’s burden to prove out-of-state criminal history	Yes	Yes
C.3	Add ranges to shaded grid cells; revamp example offenses	No	No
C.4	Add new mitigated departure factor for first offenders	No	No

As stated, above, it is estimated that there will be an eventual need for 875 fewer prison beds: 609 fewer beds as a result of an estimated 409 people moving from prison to probation; 10 more beds as a result of an estimated nine people moving from probation to prison; 401 fewer beds as a result of an estimated 875 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	69.6%
Was probation, now new prison	9	10	-1.2%
Was prison, now shorter duration	875	-401	45.8%
Was prison, now longer duration	379	125	-14.3%
Total	1,672	-875	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	2039	-852	2051	-882
2028	-559	2040	-859	2052	-879
2029	-641	2041	-866	2053	-876
2030	-715	2042	-871	2054	-874
2031	-757	2043	-878	2055	-874
2032	-778	2044	-881	2056	-874
2033	-791	2045	-885	2057	-874
2034	-805	2046	-888	2058	-874
2035	-817	2047	-886	2059	-874
2036	-828	2048	-885	2060	-875
2037	-835	2049	-884		
2038	-844	2050	-883		

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.³ Using an average pronounced local confinement rate of 88 days (2/3 term= 59 days),⁴ will result in a need for an estimated need for 40 local beds a year statewide beginning in fiscal year 2027.⁵

³ 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.

⁴ 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.

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

Demographic Impact of Policies Analyzed – Limited Estimate

The Commission’s [Demographic Impact Statement Policy](#) prohibits staff from making a demographic-impact estimate that lacks foundational reliability. For some policies, staff lacked such foundational reliability for a demographic-impact estimate, making such an estimate impossible. (An example is found in footnote 6.) Those policies are indicated by a “no” in the “Demographic Impact Possible?” column of Table 1.

As a result, 13 prison beds are omitted from the demographic-impact analysis that follows. While the total package is estimated to avoid the need for 875 prison beds, those portions of policies for which a demographic-impact analysis is possible avoid the need for 888 prison beds.

Due to this omission, the reader should keep in mind the fact that the demographic information of the occupants of 13 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 888 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 888 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

⁶ Example: A policy increases the severity of an offense from severity level (SL) 4 to SL 5, shifting those with a criminal history score (CHS) 3 from presumptive stay to presumptive commit status, prompting staff to estimate how many will receive mitigated dispositional departures despite no existing rate for these newly affected cases. To approximate this, staff used the mitigated departure rate from CHS 4 cases since they occupy a similar position relative to the dispositional line. Applying this rate to the new presumptive prison cases, staff projected which case(s) would receive a mitigated dispositional departure. Staff then calculated new prison durations for the new prison cases, identified the average duration, and selected the case(s) closest to that average for the mitigated dispositional departure(s). Without case-level demographic data, we lose foundational reliability to make a demographic-impact estimate for that policy.

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
Race & Ethnicity	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
Judicial District	--	--	--	Other/Unknown***	1	0.0	17	0.2
	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 888 prison beds.

One might assume that, in the future, the demographic characteristics of the people who would have occupied the 888 prison beds not needed as a result 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 888 prison beds reduced by these policies would be as follows.

- Gender: Male (92.6%); Female (7.4%).
- Race & Ethnicity: White (45.8%); Black (33.7%); American Indian (11.2%); Hispanic (6.2%); Asian (3.2%).
- Judicial District: First (9.4%); Second (12.2%); Third (6.4%); Fourth (17.6%); Fifth (6.4%); Sixth (3.8%); Seventh (13.2%); Eighth (5.8%); Ninth (14.4%); and Tenth (10.8%).

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 914 prison beds reduced by these policies would be as follows.

- Current person offense/person-offense history: –242.6 beds (27.3%) (compared with an estimated 22.2% of the non-lifer population).
- Current person offense/no person-offense history: –115.4 beds (13.0%) (compared with an estimated 29.5% of the non-lifer population).
- Non-person current offense/person-offense history: –260.1 beds (29.3%) (compared with an estimated 19.8% of the non-lifer population).
- Non-person current offense/no person-offense history: –269.7 beds (30.4%) (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*					
		MSGC Category	2023 Adult Inmate Population				No.	%	% -point change relative to other categories**	Estimated resulting rate per 100,000*†	Change in rate per 100,000	% change from existing prison pop.
			No.	%								
Race & Ethnicity	Male	7,674	92.75	347	-822.1	92.6	6,852	92.77		310	-37	-10.7
	Female	600	7.25	27	-65.7	7.4	534	7.23		24	-3	-10.9
	White	3,789	45.8	104	-406.6	45.8	3,382	45.8		93	-11	-10.7
	Black	3,069	37.1	950	-299.2	33.7	2,770	37.5	+0.4	858	-93	-9.7
	American Indian	757	9.1	1,100	-99.4	11.2	658	8.9	-0.2	956	-145	-13.1
	Hispanic	418	5.05	174	-55.0	6.2	363	4.91	-0.1	151	-23	-13.2
	Asian	224	2.7	88	-28.4	3.2	196	2.6	-0.1	77	-11	-12.7
Judicial District	First	683	8.25	106	-83.5	9.4	600	8.12	-0.1	93	-13	-12.2
	Second	937	11.3	226	-108.3	12.2	829	11.2	-0.1	200	-26	-11.6
	Third	610	7.4	160	-56.8	6.4	553	7.5	+0.1	145	-15	-9.3
	Fourth	2,087	25.22	211	-156.3	17.6	1,931	26.14	+0.9	195	-16	-7.5
	Fifth	458	5.5	205	-56.8	6.4	401	5.4	-0.1	179	-25	-12.4
	Sixth	461	5.6	223	-33.7	3.8	427	5.8	+0.2	207	-16	-7.3
	Seventh	958	11.6	247	-117.2	13.2	841	11.4	-0.2	217	-30	-12.2
	Eighth	263	3.2	212	-51.5	5.8	212	2.9	-0.3	171	-42	-19.6
	Ninth	885	10.7	329	-127.8	14.4	757	10.3	-0.4	282	-48	-14.4
	Tenth	841	10.16	105	-95.9	10.8	745	10.09	-0.1	93	-12	-11.4
Total		8,274	100	186	-887.8	100	7,386	100.0		166	-20	-10.7

* 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.