

## Staff Information Paper

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# Public Safety Omnibus Budget Bills

April 12, 2023

In the last week of March, the House and Senate crime committees each passed a public safety omnibus budget bill. On the House side, staff assumes that the omnibus budget bill contains most, if not all, of House Public Safety Committee Chair Kelly Moller’s policy agenda for 2023. On the Senate site, Senate Judiciary Committee Chair Ron Latz has [stated](#) that his omnibus budget bill is limited to policies with fiscal impact; he intends separately to introduce an omnibus policy bill in the future.

Table 1 summarizes the provisions of each public safety omnibus budget bill related to felony crime, sentencing, and the Sentencing Guidelines Commission. The references are to the first engrossments of [HF 2890](#) (Moller) and [SF 2909](#) (Latz). The references are abbreviated as “H” or “SB” for House or Senate Budget (in anticipation of a future “SP,” Senate Policy), followed by the article number, a colon, and the section number. For example, “SB1:10” refers to Senate File 2909, 1st Engrossment, Article 1, Section 10.

Omitted from Table 1 are the partial legalization and regulation of [sports betting](#) and [cannabis](#), each of which is the subject of its own bill. Also omitted are three new laws enacted in March:

- [2023 Minn. Laws ch. 14](#), making various technical changes to the state’s competency restoration (now “attainment”) process, which was enacted in 2022 and which will take effect July 1, 2023;
- [2023 Minn. Laws ch. 15](#), establishing felony crimes for possessing, purchasing, or acquiring multiple used, detached catalytic converters, unless certain conditions are met; and
- [2023 Minn. Laws ch. 19](#), reorganizing the Veterans Restorative Justice Act, enacted in 2021, to clarify the process by which eligibility for deferred adjudication is established.

*Table 1. 1st Engrossments of HF 2890 and SF 2909 – Provisions Related to Felony Crime, Sentencing, and the Sentencing Guidelines Commission.*

Reference	Summary	MSGC-Estimated Prison-Bed Impact
<a href="#">H1:2</a> <a href="#">SB1:10</a>	Fully funds MSGC’s budget, with an inflation adjustment and all requested change items—including the first phase of a comprehensive review of the Sentencing Guidelines.	N/A

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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.*

Reference	Summary	MSGC-Estimated Prison-Bed Impact
<a href="#">H2:4</a>	Adds several person offenses to the long list of qualified domestic violence related offenses, prior convictions of which enhance misdemeanor assault and protective-order offenses to felonies.	+5 beds
<a href="#">H2:5; H4:14</a> <a href="#">SB4:4, 7</a>	Limits criminal liability for felony murder committed by an accomplice. Applies retroactively.	-18 beds
<a href="#">H2:6, 7, 26, 27, 31</a> <a href="#">SB3:33, 34, 42-44</a>	For bias crimes, expands biased motivation to encompass: <ul style="list-style-type: none"> <li>• categories of ethnicity, gender, gender identity/expression, and age;</li> <li>• partial, but substantial, biased motivation; and</li> <li>• association with someone in one of the categories.</li> </ul>	Minimal
<a href="#">H2:8</a>	Assigns numbered clauses to the three most severe ways of committing kidnapping—unsafe release, great bodily harm, and young victim—to which the Sentencing Guidelines now assign different severity levels.	None
<a href="#">H2:10-21</a>	Amends labor trafficking definitions and elements and increases penalties; includes MSGC legislative recommendation. (Both the House and Senate have passed this as a <a href="#">standalone bill</a> .)	None
<a href="#">H2:22, 23</a> <a href="#">SB3:36, 37</a>	Establishes “organized retail theft”—shoplifting for resale or return—with higher penalties than theft. The Senate version requires the act to be part of an ongoing criminal enterprise, with two or more participants and repeated acts.	+58 beds (House) +5 beds (Senate)
<a href="#">H2:24, 25</a> <a href="#">SB3:40, 41</a>	Establishes burglary for shoplifting within a year of being told to leave and not return.	+11 beds (pending downward revision)
<a href="#">H2:28, 29</a>	Quadruples the maximum penalty for possessing a machine gun, trigger activator, or conversion kit.	+1 bed
<a href="#">H2:1, 30, 34</a>	Creates new misdemeanor and gross misdemeanor for privacy-invading photography, enhanceable to a felony, in response to <i>State v. McReynolds</i> (Minn. 2022). Also repeals the statute of limitations. (The House also passed this as a <a href="#">standalone bill</a> .)	None

Reference	Summary	MSGC-Estimated Prison-Bed Impact
<a href="#">H2:32, 33</a>	Establishes gross misdemeanor and felony crimes for deep-fake sexual images, modeled after revenge-porn statute. Criminalizes using deep-fake technology to influence an election. (The House also passed this as a <a href="#">standalone bill</a> .)	None
<a href="#">H4:1, 2</a>	Amends MSGC membership. Gives the Chief Justice’s appointment authority to the Chief Judge of the Court of Appeals and the Judicial Council. Adds new treatment-provider and academic members. Allows the crime-victim public member to be a victim’s advocate instead. Requires one public member to have been discharged from a felony sentence. Requires the Governor elected in 2026 to stagger appointed members’ terms.	N/A
<a href="#">H4:4–9, 17</a>	Deems gross misdemeanor/one-year offenses to have a 364-day maximum penalty, with immediate and retroactive effect. Redefines “felony” to be a crime for which a sentence of imprisonment for one year or more may be imposed, with immediate effect. (The House also passed this as a <a href="#">standalone bill</a> .)	N/A
<a href="#">H4:3, 10</a>	Permits prosecutors to petition for mitigated resentencing for substantial and compelling reasons. Resentencing court must inform MSGC, which must report sentence adjustments to the Legislature.	10 cases resented annually
<a href="#">H4:11–13, 15, 16</a>	Codifies the Sentencing Guidelines’ presumptive five-year probation cap and makes it nonwaivable, with retroactive effect. Adds stalking and harassment to the exclusion list. Requires MSGC to conform Guidelines.	Not estimated
<a href="#">H5:13</a> <a href="#">SB9:1</a>	Provides for automatic expungement of criminal and delinquency records upon dismissal, completion of Minn. Stat. § 152.18 requirements, or favorable resolution. Provides for conditional expungement of diversions, stays of adjudication, and, in the case of certain crimes, convictions—the condition being no new criminal convictions or charges within a one- to four-year waiting period after discharge. Requires the BCA to check for expungement eligibility. Limitations on the use of records thus expunged do not apply for sentencing purposes.	N/A

Reference	Summary	MSGC-Estimated Prison-Bed Impact
<a href="#">H6</a> <a href="#">SB5</a>	Establishes a nine-member Clemency Review Commission to review applications and provide clemency recommendations to the Board of Pardons.	N/A
<a href="#">H9:11–13</a>  <a href="#">SB8</a>	Establishes a five-member body—which the House calls the “Indeterminate Sentence Release Board”—to grant supervised release or parole instead of the Commissioner of Corrections alone.  The Senate version also requires the board—which the Senate calls the “Supervised Release Board”—to consider early supervised release for juveniles with long sentences or life sentences after 15 years in prison, applicable retroactively. In such release decisions, the Senate requires two experts in juvenile neurological development to join the other five board members.	N/A (House)  –23 beds (Senate)
<a href="#">H10</a> <a href="#">SB7</a>	Allows cancellation of one-sixth of a total executed sentence, and/or abatement of one-third of a supervised release term, through compliance with individual’s rehabilitation and/or supervision plan.	“Indeterminate” (per DOC)
<a href="#">H11:6</a>	Enhances lying on a firearms transferee permit application—to be required for certain private-party transfers—from a gross misdemeanor to a felony.	+ < 1 bed
<a href="#">H13:7–12</a> <a href="#">SB3:6–11</a>	Establishes, in controlled substance crimes, similar weight thresholds for fentanyl as for heroin, and establishes a “dosage unit” measure of quantity for both drugs.	+10 beds
<a href="#">H13:13–15, 17</a>	Excludes possession of a residual drug amount contained in drug paraphernalia from fifth-degree controlled substance crime. Legalizes drug paraphernalia possession, which remains subject to local prohibition.	N/A
<a href="#">H16</a> <a href="#">SB12</a>	Implements various reforms in community-supervision policies and funding.	N/A