

Staff Information Paper

Public Safety Omnibus Bills

May 10, 2023

In April, the House and Senate each passed a different version of the 2023 judiciary and public safety omnibus budget bill. A conference committee has been meeting to work out the differences. The conference committee has also discussed provisions of a third public safety bill—an omnibus policy bill, with no budget implications, passed by the Senate Judiciary Committee. Table 1 summarizes the provisions of each omnibus bill related to felony crime, sentencing, and the Sentencing Guidelines Commission. The references—abbreviated as “H” for “House,” “SB” for “Senate Budget,” and “SP” for “Senate Policy”—are to the following bills:

- “H” refers to [Senate File 2909, 2nd Unofficial Engrossment](#) (as it passed the House on April 26).
- “SB” refers to [Senate File 2909, 3rd Engrossment](#) (as it passed the Senate on April 14).
- “SP” refers to [Senate File 1267, 1st Engrossment](#) (as it passed the Senate Judiciary Committee on April 24).

The references are followed by the article number, a colon, and the section number. For example, “SB1:10” refers to Senate File 2909, 3rd 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. In addition, four new laws were enacted in March and April, although one—the Labor Trafficking change—is also included in the omnibus bills and is therefore mentioned in Table 1:

- [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;
- [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; and
- [2023 Minn. Laws ch. 27](#), redefining and restructuring the offense of Labor Trafficking.




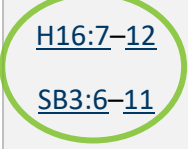
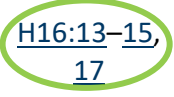

If a policy summary or prison-bed estimate has changed since the April 12 version of this paper, Table 1 highlights the change in blue. If the conference committee has adopted a provision—or something similar—Table 1 circles its reference in green. A green star (★) indicates that action is still pending.

Table 1. 2023 Public Safety Omnibus Bills – Provisions Related to Felony Crime, Sentencing, and the Sentencing Guidelines Commission.

Reference	Summary	MSGC-Estimated Prison-Bed Impact
H2:2 SB1:10	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
H5:4	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
H5:5; H7:14 SB4:6, 9	Limits criminal liability for felony murder committed by an accomplice. Applies retroactively.	-18 beds
H5:6	Creates a two-year felony for the second or subsequent physical assault of a peace officer.	+ < 1 bed
SB3:33, 34	Makes Minn. Stat. § 609.11’s mandatory minimum penalties related to firearms and ammunition nonwaivable, with a limited exception for unwitting accomplices.	+888 beds
H5:7, 8, 27, 28, 33 SB3:35, 36, 44–46	For bias crimes, expands biased motivation to encompass: <ul style="list-style-type: none"> • categories of ethnicity, gender, gender identity/expression, and age; • partial, but substantial, biased motivation; and • association with someone in one of the categories. 	Minimal
H5:9	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 assign different severity levels.	None
H5:11–22	Amends labor trafficking definitions and elements and increases penalties. An MSGC legislative recommendation is included. (A version that requires MSGC to consider ranking labor trafficking has been separately enacted as 2023 Minn. Laws. ch. 27.)	None

Reference	Summary	MSGC-Estimated Prison-Bed Impact
H5:23, 24 SB3:38, 39	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)
H5:25, 26 SB3:42, 43	Establishes burglary for shoplifting within a year of being told to leave and not return.	+3 beds
H5:30, 31	Quadruples the maximum penalty for possessing a machine gun, trigger activator, or conversion kit.	+1 bed
H5:1, 32, 38 SP5:1, 15, 22	Creates new misdemeanor and gross misdemeanor for privacy-invading photography, enhanceable to a felony, in response to <i>State v. McReynolds</i> (Minn. 2022). The House version also repeals the statute of limitations, while the Senate version extends it to three years after the offense was reported to law enforcement authorities. (The House also passed this as a standalone bill .)	None
H5:34, 35 SP5:16, 21	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 and Senate passed standalone bills , now in conference committee.)	None
SP5:17	Establishes a three-year felony for reporting a fictitious emergency where substantial bodily harm results.	None
H5:37	For the crimes involving transferring a pistol or semiautomatic military-style assault weapon to an ineligible person, adds “or has reason to know” to the knowledge requirement and converts the gross misdemeanor into a felony.	None
H7:1, 2	Amends MSGC membership. Gives the Chief Justice’s appointment authority to the Chief Judge of the Court of Appeals and to 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

Reference	Summary	MSGC-Estimated Prison-Bed Impact
H7:4-9, 17 SP5:4-9, 26	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 standalone bill .)	N/A
H7:3, 10 SP5:2, 10	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
H7:13, 15, 16 SP5:13, 24, 25	Codifies the Sentencing Guidelines’ presumptive five-year probation cap and makes it nonwaivable, with retroactive effect. Requires MSGC to conform Guidelines. The House version adds stalking and harassment to the exclusion list. The Senate version permits four-year probation periods for criminal vehicular operation resulting in substantial bodily harm, which has a 3-year statutory maximum.	Not estimated
SP5:14	Creates new felony crime of carjacking: robbery where the property taken is a motor vehicle. Carjacking’s three degrees have the same elements and maximum penalties as first-degree aggravated robbery, second-degree aggravated robbery, and simple robbery.	None
★ H8:13 SB9:1	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
H9 SB5	Establishes a nine-member Clemency Review Commission to review applications and provide clemency recommendations to the Board of Pardons.	N/A

Reference	Summary	MSGC-Estimated Prison-Bed Impact
<p> H12:11–13</p> <p>SB8</p>	<p>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.</p> <p>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.</p>	<p>N/A (House)</p> <p>–23 beds (Senate)</p>
<p> H13</p> <p>SB7</p>	<p>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.</p>	<p>“Indeterminate” (per DOC)</p>
<p> H14:6</p>	<p>Enhances lying on a firearms transferee permit application—to be required for certain private-party transfers—from a gross misdemeanor to a felony.</p>	<p>+ < 1 bed</p>
<p>H15:8</p>	<p>Creates a new gross misdemeanor, enhanceable to a felony, for petitioning for an extreme risk protection order with knowingly false information or with the intent to harass, abuse, or threaten.</p>	<p>None</p>
<p> H16:7–12</p> <p>SB3:6–11</p>	<p>Establishes, in controlled substance crimes, similar weight thresholds for fentanyl as for heroin, and establishes a “dosage unit” measure of quantity for both drugs.</p>	<p>+10 beds</p>
<p> H16:13–15, 17</p>	<p>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.</p>	<p>N/A</p>
<p> H19</p> <p>SB12</p>	<p>Implements various reforms in community-supervision policies and funding.</p>	<p>N/A</p>