



## Legislative Update Sex Trafficking & Sexual Solicitation of Children

Staff Presentation

MSGC Meeting May 6, 2021

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## Introduction

- This presentation is focused on the sex trafficking & sexual solicitation of children provisions common to both the Senate and House versions of S.F. 970 (Omnibus Public Safety Bill)
  - Further amendments are possible before final passage
- The legislative session will end May 17, 2021
- Timing
  - Today: Last day for MSGC to make recommendations to the Legislature
  - June 3: MSGC meets to decide changes to Sentencing Guidelines in response to legislative action
  - July 15: MSGC holds public hearing
  - July 21: MSGC meets to take final action on Guidelines changes
  - August 1: Staff publishes new Sentencing Guidelines

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## Legislative background

- These changes are from H.F. 613/S.F. 765
- The bill's proponents were the Stearns County Attorney and the Central Minnesota Human Trafficking Task Force
- The proponents' legislative handouts (in your meeting packets) disclose much of the rationale behind the bill

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## Felony prostitution offenses

- The bill changes misdemeanor and gross misdemeanor prostitution offenses
- The bill creates a five-year felony for second offense of being a patron of prostitution within ten years of previous patron or sex trafficking conviction
  - Because the other five-year prostitution felony (engage or hire a minor age 16 or 17 to engage in prostitution) is ranked at SL 3, staff's fiscal note assumed Commission would rank this offense at SL 3
- Note: In House version only, age thresholds for felony child prostitution offenses are revised ("under the age of 13" is changed to "under the age of 14")

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## Sex trafficking offenses

- Included behavior:
  - Soliciting or inducing someone to practice prostitution
  - Promoting the prostitution of an individual
  - Receiving profit known to have been derived from prostitution
  - Engaging in sex trafficking (e.g., recruiting someone to aid in that person's prostitution)
- These offenses do not apply to the patron or the prostitute
- First degree: child victim
- Second degree: adult victim
- Aggravated offenses:
  - Prior human trafficking offense
  - Victim suffered bodily harm
  - Debt bondage or forced services lasted over 180 days
  - More than one victim

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## Current sex trafficking rankings

- Sex trafficking first degree (child victim) is ranked at SL B
  - 20-year statutory maximum caps the durations at CHS of 5 and 6+
- Sex trafficking second degree (adult victim) is ranked at SL C
  - 15-year statutory maximum equals grid maximum (180 months)
- Aggravated sex trafficking first degree
  - 25-year statutory maximum; applies to either adult or child victims
  - Not ranked as a separate offense, but treated as a sentence modifier under 2.G.9
  - Adds 48 months to presumptive duration (or +24 months for attempt or conspiracy)

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## Bill's changes to sex trafficking offenses

- The bill increases the three statutory maximums by five years each
  - For sex trafficking first degree (child victim), the new statutory maximum (25 years) will equal the grid maximum (300 months)
- The bill adds sex trafficking to the list of “violent crimes” eligible for mandatory sentences for repeat offenses under Minn. Stat. § 609.1095
- The bill contains a review mandate to the MSGC
  - “The Sentencing Guidelines Commission shall comprehensively review and consider modifying how the Sentencing Guidelines and the sex offender grid address the crimes described in Minnesota Statutes, section 609.322.”

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## Solicitation of Children to Engage in Sexual Conduct

- The same bill also increases the statutory maximum penalty for Solicitation of Children to Engage in Sexual Conduct
  - The crime prohibits an adult from asking a child under age 16 (or someone reasonably believed to be a child under age 16) to engage in sexual conduct
  - Electronic solicitation also includes sending descriptions or images of sexual conduct
- Ranked at SL G, the offense's 3-year statutory maximum caps the durations at CHS of 4, 5, and 6+
- The bill increases the statutory maximum to 5 years, which equals the grid maximum (60 months)

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## Looking at the proponents' intent

- Proponents argue that sex trafficking is a violent crime
  - Should MSGC include sex trafficking in Severe Violent Offense List?
- Proponents wanted to increase statutory maximums so the statutory maximums would not cap the grid durations
  - No MSGC action needed to accomplish this
- Proponents suggest ranking aggravated sex trafficking at SL A (rather than as a modifier)
  - This would require MSGC action

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## Bottom line for June

Staff is likely to recommend that the Commission—

- Rank the new five-year felony for repeat sex buyers at SL 3
- Maintain severity level rankings for sex trafficking and Solicitation of Children to Engage in Sexual Conduct offenses
- Consider adding sex trafficking to the Severe Violent Offense List
- Defer a decision on ranking aggravated sex trafficking (rather than treating it as a modifier) pending completion of comprehensive review in the fall

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