

HF689 - 0 - "Probation Length Certain Offenses Modified"

Chief Author: **Jamie Long**  
 Committee: **Public Safety and Criminal Justice Reform Finance & Policy Division**  
 Date Completed: **02/21/2019**  
 Lead Agency: **Corrections Dept**  
 Other Agencies:  
     Sentencing Guidelines      Supreme Court  
     Comm

State Fiscal Impact	Yes	No
Expenditures	X	
Fee/Departmental Earnings		X
Tax Revenue		X
Information Technology		X
Local Fiscal Impact	X	

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions shown in the parentheses.

State Cost (Savings)	Biennium			Biennium		
	Dollars in Thousands	FY2019	FY2020	FY2021	FY2022	FY2023
Corrections Dept	-	-	-	-	-	-
General Fund	-	-	-	-	-	-
State Total						
General Fund	-	-	-	-	-	-
<b>Total</b>	-	-	-	-	-	-
<b>Biennial Total</b>			-			-

Full Time Equivalent Positions (FTE)	Biennium			Biennium	
	FY2019	FY2020	FY2021	FY2022	FY2023
Corrections Dept	-	-	-	-	-
General Fund	-	-	-	-	-
<b>Total</b>	-	-	-	-	-

**Lead Executive Budget Officer's Comment**

I have reviewed this fiscal note for reasonableness of content and consistency with MMB's Fiscal Note policies.

EBO Signature: Jim King      Date: 02/21/2019  
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**State Cost (Savings) Calculation Details**

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions are shown in parentheses.

\*Transfers In/Out and Absorbed Costs are only displayed when reported.

<b>State Cost (Savings) = 1-2</b>	<b>Biennium</b>			<b>Biennium</b>	
Dollars in Thousands	FY2019	FY2020	FY2021	FY2022	FY2023
Corrections Dept	-	-	-	-	-
General Fund	-	-	-	-	-
<b>Total</b>	-	-	-	-	-
<b>Biennial Total</b>			-		-
<b>1 - Expenditures, Absorbed Costs*, Transfers Out*</b>					
Corrections Dept	-	-	-	-	-
General Fund	-	-	-	-	-
<b>Total</b>	-	-	-	-	-
<b>Biennial Total</b>			-		-
<b>2 - Revenues, Transfers In*</b>					
Corrections Dept	-	-	-	-	-
General Fund	-	-	-	-	-
<b>Total</b>	-	-	-	-	-
<b>Biennial Total</b>			-		-

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 Agency: **Corrections Dept**

State Fiscal Impact	Yes	No
Expenditures	X	
Fee/Departmental Earnings		X
Tax Revenue		X
Information Technology		X
Local Fiscal Impact	X	

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions shown in the parentheses.

State Cost (Savings)	Biennium			Biennium		
	Dollars in Thousands	FY2019	FY2020	FY2021	FY2022	FY2023
General Fund	-	-	-	-	-	-
<b>Total</b>	-	-	-	-	-	-
<b>Biennial Total</b>			-			-

Full Time Equivalent Positions (FTE)	Biennium			Biennium	
	FY2019	FY2020	FY2021	FY2022	FY2023
General Fund	-	-	-	-	-
<b>Total</b>	-	-	-	-	-

**Executive Budget Officer's Comment**

I have reviewed this fiscal note for reasonableness of content and consistency with MMB's Fiscal Note policies.

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**State Cost (Savings) Calculation Details**

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions are shown in parentheses.

\*Transfers In/Out and Absorbed Costs are only displayed when reported.

<b>State Cost (Savings) = 1-2</b>		Biennium			Biennium	
Dollars in Thousands		FY2019	FY2020	FY2021	FY2022	FY2023
General Fund		-	-	-	-	-
	<b>Total</b>	-	-	-	-	-
	<b>Biennial Total</b>			-		-
<b>1 - Expenditures, Absorbed Costs*, Transfers Out*</b>						
General Fund		-	-	-	-	-
	<b>Total</b>	-	-	-	-	-
	<b>Biennial Total</b>			-		-
<b>2 - Revenues, Transfers In*</b>						
General Fund		-	-	-	-	-
	<b>Total</b>	-	-	-	-	-
	<b>Biennial Total</b>			-		-

**Bill Description**

The proposed legislation would modify the length of probation for certain offenses under Minnesota Statute 609.135. It would amend subd. 2(a) by increasing the maximum stay length to five years from four years for offenses other than criminal vehicular injury, and would eliminate the ability to pronounce a period of probation equivalent to the statutory maximum for the offense. It would amend subd. 2(b) by decreasing the maximum stay for gross misdemeanor DWI and criminal vehicular injury offenses from six years to five years.

The bill would also add a provision to clarify a court may discharge a defendant from probation before the expiration of the maximum period prescribed for probation, except for certain offenses including murder and criminal sexual conduct (CSC). The probation length for murder and CSC would be the maximum time period for which the sentence of imprisonment might have been imposed by the court.

**Assumptions**

The Minnesota Sentencing Guidelines Commission (MSGC) assumes the provisions of this bill would not change the probation durations assigned to CSC offenses, murders, and the 81 percent of all other cases for which a probation term of 60 months or less was assigned.

The MSGC indicates the remaining 19 percent of non-CSC and non-murder probation cases, with probation terms longer than 60 months, is equivalent to an average of 1,922 cases annually. The MSGC assumes the provisions of this bill would reduce the number of annual probation revocations by 2.6 percent (50 cases annually), and the need for state prison beds would eventually be reduced by 85 beds.

The prison bed impact would be delayed at least five years. The MSGC estimates the potential to reduce prison beds would begin in FY2026 with 19 beds and increase each year, eventually reaching a reduction of 85 prison beds in FY2030.

There would be a minimal impact on supervision caseloads statewide.

Prison bed costs (savings) are based on a marginal cost per diem of \$61.57 for each fiscal year. This includes marginal costs for all facility, private and public bed rental, health care and support costs.

The annual cost reduction is estimated by multiplying the number of prison beds needed by the subsequent annual per diem. Unless otherwise noted, prison beds are phased in on a quarterly basis.

Prison bed FTE impact for the decrease in the offender population assumes 80 percent of the ongoing bed impact is personnel-related and the average salary per FTE is \$72,000 per year including benefits.

This bill would be effective August 1, 2019 and would apply to stays of sentence granted on or after that date.

**Expenditure and/or Revenue Formula**

*Costs for Prison Beds - DOC*

Fiscal Year	2020	2021	2022	2023
Number of Prison Beds	0	0	0	0
Cost of Prison Beds (in 000s)	\$0	\$0	\$0	\$0
FTEs	0	0	0	0

There would be no reduction in prison beds for at least five years.

**Long-Term Fiscal Considerations**

The estimated reduction in prison beds would save \$267,000 in FY2026, and increase each year. The estimated savings would increase to \$1.91 million in FY2031 and continue into subsequent years.

**Local Fiscal Impact**

There would be some savings in supervision costs for local correctional resources if 19 percent of felony probation terms (for non-excluded offenses) are reduced, as assumed by the MSGC.

**References/Sources**

Minnesota Sentencing Guidelines Commission

Department of Corrections staff

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**HF689 - 0 - "Probation Length Certain Offenses Modified"**

Chief Author: **Jamie Long**  
 Committee: **Public Safety and Criminal Justice Reform Finance & Policy Division**  
 Date Completed: **02/21/2019**  
 Agency: **Sentencing Guidelines Comm**

State Fiscal Impact	Yes	No
Expenditures		X
Fee/Departmental Earnings		X
Tax Revenue		X
Information Technology		X
Local Fiscal Impact	X	

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions shown in the parentheses.

State Cost (Savings)	Biennium			Biennium		
	Dollars in Thousands	FY2019	FY2020	FY2021	FY2022	FY2023
<b>Total</b>	-	-	-	-	-	-
<b>Biennial Total</b>				-		-

Full Time Equivalent Positions (FTE)	Biennium			Biennium		
	Dollars in Thousands	FY2019	FY2020	FY2021	FY2022	FY2023
<b>Total</b>	-	-	-	-	-	-

**Executive Budget Officer's Comment**

I have reviewed this fiscal note for reasonableness of content and consistency with MMB's Fiscal Note policies.

EBO Signature: Jim King      Date: 2/15/2019 3:25:57 PM  
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**State Cost (Savings) Calculation Details**

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions are shown in parentheses.

\*Transfers In/Out and Absorbed Costs are only displayed when reported.

<b>State Cost (Savings) = 1-2</b>		<b>Biennium</b>			<b>Biennium</b>	
Dollars in Thousands	FY2019	FY2020	FY2021	FY2022	FY2023	
<b>Total</b>	-	-	-	-	-	-
<b>Biennial Total</b>			-			-
<b>1 - Expenditures, Absorbed Costs*, Transfers Out*</b>						
<b>Total</b>	-	-	-	-	-	-
<b>Biennial Total</b>			-			-
<b>2 - Revenues, Transfers In*</b>						
<b>Total</b>	-	-	-	-	-	-
<b>Biennial Total</b>			-			-

**Bill Description**

This bill modifies the length of probation for certain offenses under Minn. Stat. § 609.135. This bill amends subd 2(a) by increasing the maximum stay length to five years from four years, for offenses other than criminal vehicular injury and eliminates the ability to pronounce a period of probation equivalent to the statutory maximum for the offense. This bill amends subd 2(b) by decreasing the maximum stay for gross misdemeanor DWI and criminal vehicular injury offenses from six years to five years.

This bill adds subd 2(i) which states notwithstanding the time periods for stays of sentences under paragraphs (a) to (f), a court may discharge a defendant from probation before the expiration of the maximum period prescribed for the probation except for probation for certain offenses, including murder and criminal sexual conduct. The probation length for murder and criminal sexual conduct (CSC) is the maximum time-period for which the sentence of imprisonment might have been imposed by the court.

This bill is effective August 1, 2019, and applies to stays of sentence granted on or after that date.

**Assumptions**

According to MSGC monitoring data, from 2008 to 2010 (time period selected to allow for potential probation revocations occurring after five years or more), the average pronounced period of probation for offenders receiving felony sentences was 70.5 months. When CSC and murder are excluded, the average pronounced period of probation was 67.3 months, with 81 percent receiving probation terms of 60 months or less and 19 percent receiving probation terms longer than 60 months. It is assumed that the bill will not change the probation durations assigned to CSC offenses, murders, and the 81 percent of all other cases for which a probation term of 60 months or less was assigned.

Analysis is therefore limited to the remaining 19 percent of non-CSC, non-murder, probation cases, an average of 1,922 cases annually. Probation was revoked for 19.6 percent of cases within the first five years of probation, probation was revoked for 2.6 percent after the first five years of probation, and probation was never revoked for the remaining 77.8 percent. It is therefore assumed that the bill would reduce the number of annual probation revocations by 2.6 percent of 1,922 (50 cases annually).

Among the 2.6 percent revoked after five years, it is assumed that the imposed prison duration was equal to the previously stayed duration (among the 75% of cases that were stay-of-execution cases) or the presumptive Guidelines sentence duration (among the 25% of cases that were stay-of-imposition cases), yielding an average pronounced prison sentence of 40 months. The amount of jail credit for each case is unknown. Assuming that each revoked probationer serves two-thirds of the pronounced prison sentence and receives an average jail credit of six months, the effective average time to serve is reduced to 20.5 months. Multiplying 50 cases by 20.5 months, it is assumed that prison-bed demand will eventually be reduced by 85 beds as a result of this bill.

It is possible that the bed savings could vary from that estimated here as the number of probationers has increased since

the 2008-2010 time period selected for this analysis (e.g., 9,564 non-CSC/murder cases in 2010 vs. 11,537 in 2016). On the other hand, the percent of cases with pronounced probation terms longer than 60 months has decreased (e.g., from 18.4% of non-CSC/non-murder cases in 2010 to 16.8% in 2016). In addition, long-term revocation rates for later years, i.e., 2017-18, are not yet known.

**Expenditure and/or Revenue Formula**

NA

**Long-Term Fiscal Considerations**

When probation revocations occur, offenders can be revoked to prison. Therefore, reducing maximum probation periods would limit the time-period during which offenders would be subject to probation revocations. It is estimated that prison-bed demand will be reduced by 85 beds as a result of this bill. Any impact would be delayed by at least five years. Table 1 displays the timing for the estimated bed reductions.

Table 1. Estimated Prison Bed Reductions by Fiscal Year

Fiscal Year	Total Bed Reductions
2026	19
2027	50
2028	72
2029	83
2030	85

**Local Fiscal Impact**

If 19 percent of felony probation terms are reduced (for non-excluded offenses), there will be some local government fiscal savings in supervision costs for local jurisdictions.

**References/Sources**

References/Sources

MSGC monitoring Data 2008-2017

Minn. Sentencing Guidelines Commission. (January 2019). Probation Revocations Offenders Sentenced from 20022016, Revoked to Prison through 2017

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HF689 - 0 - "Probation Length Certain Offenses Modified"

Chief Author: **Jamie Long**  
 Committee: **Public Safety and Criminal Justice Reform Finance & Policy Division**  
 Date Completed: **02/21/2019**  
 Agency: **Supreme Court**

State Fiscal Impact	Yes	No
Expenditures		X
Fee/Departmental Earnings		X
Tax Revenue		X
Information Technology		X
Local Fiscal Impact		X

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State Cost (Savings)	Biennium			Biennium		
	Dollars in Thousands	FY2019	FY2020	FY2021	FY2022	FY2023
<b>Total</b>	-	-	-	-	-	-
<b>Biennial Total</b>				-		-

Full Time Equivalent Positions (FTE)	Biennium			Biennium		
	Dollars in Thousands	FY2019	FY2020	FY2021	FY2022	FY2023
<b>Total</b>	-	-	-	-	-	-

**Executive Budget Officer's Comment**

I have reviewed this fiscal note for reasonableness of content and consistency with MMB's Fiscal Note policies.

EBO Signature: Jim King      Date: 2/16/2019 2:49:08 PM  
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**State Cost (Savings) Calculation Details**

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions are shown in parentheses.

\*Transfers In/Out and Absorbed Costs are only displayed when reported.

<b>State Cost (Savings) = 1-2</b>		Biennium			Biennium	
Dollars in Thousands	FY2019	FY2020	FY2021	FY2022	FY2023	
<b>Total</b>	-	-	-	-	-	-
<b>Biennial Total</b>			-			-
<b>1 - Expenditures, Absorbed Costs*, Transfers Out*</b>						
<b>Total</b>	-	-	-	-	-	-
<b>Biennial Total</b>			-			-
<b>2 - Revenues, Transfers In*</b>						
<b>Total</b>	-	-	-	-	-	-
<b>Biennial Total</b>			-			-

**Bill Description**

HF689-0 modifies the length of probation for certain offenses under Minn. Stat. § 609.135, subd. 2, by amending paragraph (a) to increase the maximum stay length for certain felony offenses from 4 to 5 years and eliminates the ability to pronounce a stay period equivalent to the statutory maximum sentence of imprisonment for the offense; and amending paragraph (b) to decrease the maximum stay for certain gross misdemeanor and felony offenses from 6 to 5 years. The bills also adds a new paragraph (i), which states notwithstanding the time periods for stays of sentences under paragraphs (a) to (f), a court may discharge a defendant from probation before the expiration of the maximum period prescribed for certain offenses, except for murder and criminal sexual conduct (CSC). The probation time for murder and CSC is the maximum time period for which the sentence of imprisonment might have been imposed by the court.

**Assumptions**

Because the provisions of this bill do not create any new criminal offenses, and only modify the length of probation applicable to existing offenses, it is assumed that the provisions of this bill will not result in additional criminal case filings and will not significantly impact the time the Judicial Branch spends on these existing offenses.

**Expenditure and/or Revenue Formula**

It is not anticipated that the provisions of this bill will have a significant fiscal impact on the Judicial Branch.

**Long-Term Fiscal Considerations**

None

**Local Fiscal Impact**

None

**References/Sources**

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