

Revised

Consolidated Fiscal Note

2021-2022 Legislative Session

SF2844 - 0 - Fleeing Peace Officer Offense Modified

Chief Author: **Julia Coleman**
 Committee: **Judiciary And Public Safety Finance And Policy**
 Date Completed: **2/15/2022 3:28:49 PM**
 Lead Agency: **Supreme Court**
 Other Agencies:
 Corrections Dept Public Defense Board
 Public Safety Dept 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	FY2021	FY2022	FY2023	FY2024	FY2025
Corrections Dept						
General Fund	-	-	10	35	47	
State Total						
General Fund	-	-	10	35	47	
Total	-	-	10	35	47	
Biennial Total			10			82

Full Time Equivalent Positions (FTE)	Biennium			Biennium	
	FY2021	FY2022	FY2023	FY2024	FY2025
Corrections Dept					
General Fund	-	-	.1	.4	.5
Total	-	-	.1	.4	.5

Lead LBO Analyst's Comment

I have reviewed this fiscal note for reasonableness of content and consistency with the LBO's Uniform Standards and Procedures.

This fiscal note has been revised to correct the estimated number of additional prison beds needed which did impact the fiscal note costs for the Sentencing Guidelines Commission, the Department of Corrections, and the overall Cost (Savings) table of the fiscal note.

LBO Signature: Alyssa Holterman Rosas **Date:** 2/15/2022 3:28:49 PM
Phone: 651-284-6439 **Email:** alyssa.holterman.rosas@lbo.mn.gov

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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.

State Cost (Savings) = 1-2		Biennium			Biennium	
Dollars in Thousands		FY2021	FY2022	FY2023	FY2024	FY2025
Corrections Dept						
General Fund		-	-	10	35	47
Total		-	-	10	35	47
Biennial Total				10		82
1 - Expenditures, Absorbed Costs*, Transfers Out*						
Corrections Dept						
General Fund		-	-	10	35	47
Total		-	-	10	35	47
Biennial Total				10		82
2 - Revenues, Transfers In*						
Corrections Dept						
General Fund		-	-	-	-	-
Total		-	-	-	-	-
Biennial Total				-		-

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2021-2022 Legislative Session

SF2844 - 0 - Fleeing Peace Officer Offense Modified

Chief Author: **Julia Coleman**
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 Agency: **Supreme Court**

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	FY2021	FY2022	FY2023	FY2024	FY2025
Total	-	-	-	-	-	-
Biennial Total			-			-

Full Time Equivalent Positions (FTE)	Biennium			Biennium		
		FY2021	FY2022	FY2023	FY2024	FY2025
Total	-	-	-	-	-	-

LBO Analyst's Comment

I have reviewed this fiscal note for reasonableness of content and consistency with the LBO's Uniform Standards and Procedures.

LBO Signature: Alyssa Holterman Rosas **Date:** 2/11/2022 6:12:47 PM
Phone: 651-284-6439 **Email:** alyssa.holterman.rosas@lbo.mn.gov

Revised

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.

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Total	-	-	-	-	-	-
Biennial Total			-			-
1 - Expenditures, Absorbed Costs*, Transfers Out*						
Total	-	-	-	-	-	-
Biennial Total			-			-
2 - Revenues, Transfers In*						
Total	-	-	-	-	-	-
Biennial Total			-			-

Bill Description

SF2844 amends Minn. Stat. § 609.487 by adding a new subdivision 3a, to provide that a person who by means of a motor vehicle flees or attempts to flee a peace officer acting in the lawful discharge of official duty, and the perpetrator knows or should reasonably know the same is a peace officer, and who in the course of fleeing operates the vehicle in a culpably negligent manner creating an unreasonable risk and consciously takes chances of causing death or great bodily harm to another, is guilty of a felony and may be sentenced to imprisonment for not more than 4 years or payment of an \$8,000 fine or both. The bill also amends section 609.487 to require the court to notify the commissioner of public safety when a defendant is convicted of this offense, and amends section 171.174, requiring the commissioner to revoke the defendant's license for not less than 4 years upon receipt of the conviction.

Assumptions

It is assumed that the provisions of the bill will not increase case filings as the conduct already constitutes felony fleeing a peace officer under 609.487. The bill only impacts the sentencing of certain fleeing offenses. The work needed to add the new offense code in the court's case management system and program it to notify the commissioner of public safety upon entry of conviction will be absorbed.

Expenditure and/or Revenue Formula

This bill is not anticipated to have a significant fiscal impact on the judicial branch as it will not increase case filing rates or measurably increase the judicial branch resources required to process these criminal cases.

Long-Term Fiscal Considerations

Local Fiscal Impact

References/Sources

Agency Contact:

Agency Fiscal Note Coordinator Signature: Janet Marshall

Date: 2/11/2022 4:16:11 PM

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Phone: 651-297-7579

Email: Janet.marshall@courts.state.mn.us

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Fiscal Note

2021-2022 Legislative Session

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Chief Author: **Julia Coleman**
 Committee: **Judiciary And Public Safety Finance And Policy**
 Date Completed: **2/15/2022 3:28:49 PM**
 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.

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	Dollars in Thousands	FY2021	FY2022	FY2023	FY2024	FY2025
General Fund	-	-	10	35	47	
Total	-	-	10	35	47	
Biennial Total			10		82	

Full Time Equivalent Positions (FTE)	Biennium			Biennium	
	FY2021	FY2022	FY2023	FY2024	FY2025
General Fund	-	-	.1	.4	.5
Total	-	-	.1	.4	.5

LBO Analyst's Comment

I have reviewed this fiscal note for reasonableness of content and consistency with the LBO's Uniform Standards and Procedures.

This fiscal note has been revised to correct the estimated number of additional prison beds needed which did impact the overall Cost (Savings) table of the fiscal note.

LBO Signature: Jim Carlson **Date:** 2/15/2022 3:26:12 PM
Phone: 651-284-6540 **Email:** jim.carlson@lbo.mn.gov

Revised

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.

State Cost (Savings) = 1-2		Biennium			Biennium	
Dollars in Thousands		FY2021	FY2022	FY2023	FY2024	FY2025
General Fund	-	-	-	10	35	47
Total		-	-	10	35	47
Biennial Total					10	82
1 - Expenditures, Absorbed Costs*, Transfers Out*						
General Fund	-	-	-	10	35	47
Total		-	-	10	35	47
Biennial Total					10	82
2 - Revenues, Transfers In*						
General Fund	-	-	-	-	-	-
Total		-	-	-	-	-
Biennial Total					-	-

Bill Description

The proposed legislation would modify M.S. 609.487 by creating a new subdivision (3a) for culpable negligence. A person who flees a peace officer who is acting in the lawful discharge of an official duty, and the person knows or should reasonably know the same to be a peace officer, would be guilty of a felony if in the course of fleeing they operate the vehicle in a culpably negligent manner whereby they create an unreasonable risk and consciously takes chances of causing death or great bodily harm to another. The new crime would have a statutory maximum of four years or a payment of a fine of not more than \$8,000, or both.

Assumptions

The Minnesota Sentencing Guidelines Commission (MSGC) assumes that due to the pandemic, the cases sentenced in 2020 would not be a fair approximation of the number sentenced in the future. Data from 2015 to 2019 is used to estimate the impact of this bill.

The MSGC estimates there would be a net impact of 56 cases sentenced for the new culpable-negligence fleeing offense, and the offenses would be ranked at severity level (SL) 3. The number of prison beds needed as a result of switching the cases from SL1 to SL3 would increase from 8.6 to 11.9 each year.

Allowing six months for implementation, the estimated prison bed impact would be 1 additional bed in FY2023 and 3 beds in FY2024 and each subsequent year.

There would be a minimal impact on supervision caseloads statewide, however the accumulative effect could be significant as new offenses or penalty enhancements are enacted.

Prison bed costs are based on a marginal per diem cost of \$41.80 for FY2023, \$42.42 for FY2024, and \$43.18 for FY2025 and each subsequent year. This includes marginal costs for all facility, private and public bed rental, health care and support costs.

The annual costs are estimated by multiplying the number of prison beds by the subsequent annual per diem. Unless otherwise noted, prison beds are phased out on a quarterly basis.

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

This bill would be effective August 1, 2022 and apply to crimes committed on or after that date..

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Expenditure and/or Revenue Formula

Costs/(Savings) for Prison Beds - DOC

Fiscal Year	2021	2022	2023	2024	2025
Number of Prison Beds	0	0	1	3	3
Cost of Prison Beds (in 000s)	\$0	\$0	\$10	\$35	\$47
FTEs	0	0	0.1	0.4	0.5

Long-Term Fiscal Considerations

Costs would continue into subsequent years.

Local Fiscal Impact

There would be some impact to local correctional resources as result of this bill. The MSGC estimates there would be 45 additional probation cases statewide each year. It is assumed 90 percent of those cases (40 cases) would receive conditional confinement in a local jail or workhouse, resulting in the need for 7 local beds each year.

References/Sources

Minnesota Sentencing Guidelines Commission

Department of Corrections staff

Agency Contact: Karen Juneski 651-361-7259

Agency Fiscal Note Coordinator Signature: Chris Dodge

Phone: 651-361-7264

Date: 2/15/2022 12:58:24 PM

Email: Chris.Dodge@state.mn.us

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Fiscal Note

2021-2022 Legislative Session

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Chief Author: **Julia Coleman**
 Committee: **Judiciary And Public Safety Finance And Policy**
 Date Completed: **2/15/2022 3:28:49 PM**
 Agency: **Public Defense Board**

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	FY2021	FY2022	FY2023	FY2024	FY2025
Total	-	-	-	-	-	-
Biennial Total			-			-

Full Time Equivalent Positions (FTE)	Biennium			Biennium		
		FY2021	FY2022	FY2023	FY2024	FY2025
Total	-	-	-	-	-	-

LBO Analyst's Comment

I have reviewed this fiscal note for reasonableness of content and consistency with the LBO's Uniform Standards and Procedures.

LBO Signature: Alyssa Holterman Rosas **Date:** 2/12/2022 2:38:45 PM
Phone: 651-284-6439 **Email:** alyssa.holterman.rosas@lbo.mn.gov

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State Cost (Savings) Calculation Details

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State Cost (Savings) = 1-2		Biennium			Biennium	
Dollars in Thousands	FY2021	FY2022	FY2023	FY2024	FY2025	
Total	-	-	-	-	-	-
Biennial Total			-			-
1 - Expenditures, Absorbed Costs*, Transfers Out*						
Total	-	-	-	-	-	-
Biennial Total			-			-
2 - Revenues, Transfers In*						
Total	-	-	-	-	-	-
Biennial Total			-			-

Bill Description

The bill amends M.S. 609.487 to make it a felony to flee a peace officer and operates a vehicle in a negligent creating an unreasonable risk and takes s chances of causing death or great bodily harm .

Assumptions

Fleeing a police officer can be charged out as a felony, so there is no expected impact to caseload or workload.

Expenditure and/or Revenue Formula

Long-Term Fiscal Considerations

Local Fiscal Impact

References/Sources

Agency Contact:

Agency Fiscal Note Coordinator Signature: Kevin Kajer

Phone: 612-279-3508

Date: 2/12/2022 2:09:36 PM

Email: Kevin.kajer@pubdef.state.mn.us

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2021-2022 Legislative Session

SF2844 - 0 - Fleeing Peace Officer Offense Modified

Chief Author: **Julia Coleman**
 Committee: **Judiciary And Public Safety Finance And Policy**
 Date Completed: **2/15/2022 3:28:49 PM**
 Agency: **Public Safety 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	FY2021	FY2022	FY2023	FY2024	FY2025
Total	-	-	-	-	-	-
Biennial Total			-			-

Full Time Equivalent Positions (FTE)	Biennium			Biennium		
		FY2021	FY2022	FY2023	FY2024	FY2025
Total	-	-	-	-	-	-

LBO Analyst's Comment

I have reviewed this fiscal note for reasonableness of content and consistency with the LBO's Uniform Standards and Procedures.

LBO Signature: Laura Cecko **Date:** 2/14/2022 9:08:51 AM
Phone: 651-284-6543 **Email:** laura.cecko@lbo.mn.gov

Revised

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.

State Cost (Savings) = 1-2		Biennium			Biennium	
Dollars in Thousands	FY2021	FY2022	FY2023	FY2024	FY2025	
Total	-	-	-	-	-	-
Biennial Total			-			-
1 - Expenditures, Absorbed Costs*, Transfers Out*						
Total	-	-	-	-	-	-
Biennial Total			-			-
2 - Revenues, Transfers In*						
Total	-	-	-	-	-	-
Biennial Total			-			-

Bill Description

Adds subd. 3a to M.S. 609.487 "Culpable negligence;" A person fleeing a police officer operating a vehicle, and in the course of fleeing operates the vehicle in a culpably negligent manner creating an unreasonable risk and consciously takes chances of causing death or great bodily harm is guilty of a felony. The person may be sentenced to imprisonment of not more than four years, a fine of not more than \$8,000, or both.

Adds (3) to M. S. 171.174 The license shall be revoked for a person for the above violation.

Assumptions

Assume effective date of August 1, 2022.

Driver and Vehicle Services

Assume notification to Driver and Vehicle Services (DVS) from the courts of convictions for this offense will remain the same.

Assume use existing automated process to notify customers of a driver's license revocation following conviction for fleeing a police officer.

In 2021, DVS received notice of 514 convictions for violations under existing fleeing a police officer statutes (Minn. Stat. 609.487, subd. 3 and 4. Assume no significant increase in the number of violations is expected. Assume a person not found to be culpably negligent while fleeing a police officer under the new proposed subdivision 3a, they could still be charged with fleeing a police officer under current law. Assume no significant increase in Attorney General legal costs from individuals who may challenge the revocation.

Assume changes required to Minn. R. 7409.1100 to add new withdrawal period as described.

Assume that 40 hours of programming will be needed to configure and test changes to add new statutory violation, configure updated rules for driver's license withdrawal, and configure changes to the driver record. Assume that 40 hours of testing will be needed to verify that the new programming properly interfaces with courts and the Bureau of Criminal Apprehension (BCA). Assume an hourly rate of \$200 for a total programming cost of \$16,000 (80 hours per hour x \$200 = \$16,000). Assume programming costs to be absorbed under the current maintenance and support contract with FAST Enterprises, at no additional cost to DVS.

Minnesota State Patrol

The State Patrol will continue to see charges for fleeing offenses in the same manner as today. Increased and/or modified penalties will have no fiscal impact for the State Patrol.

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Bureau of Criminal Apprehension

The Statute Service will need to be modified to reflect the changes made by the bill.

The Bureau of Criminal Apprehension (BCA) operates the Statute Service that documents criminal offenses and is used by all portions of the criminal justice community.

Expenditure and/or Revenue Formula

BCA

The work to modify the Statute Service is minimal and will be absorbed.

Long-Term Fiscal Considerations

Local Fiscal Impact

References/Sources

Agency Contact: Pong Xiong 651-201-7580

Agency Fiscal Note Coordinator Signature: Dan Boytim

Phone: 651-201-7040

Date: 2/14/2022 8:52:32 AM

Email: Dan.Boytim@state.mn.us

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Fiscal Note

2021-2022 Legislative Session

SF2844 - 0 - Fleeing Peace Officer Offense Modified

Chief Author: **Julia Coleman**
 Committee: **Judiciary And Public Safety Finance And Policy**
 Date Completed: **2/15/2022 3:28:49 PM**
 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	

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State Cost (Savings)	Biennium			Biennium		
	Dollars in Thousands	FY2021	FY2022	FY2023	FY2024	FY2025
Total	-	-	-	-	-	-
Biennial Total			-			-

Full Time Equivalent Positions (FTE)	Biennium			Biennium		
		FY2021	FY2022	FY2023	FY2024	FY2025
Total	-	-	-	-	-	-

LBO Analyst's Comment

I have reviewed this fiscal note for reasonableness of content and consistency with the LBO's Uniform Standards and Procedures.

This fiscal note has been revised to correct the estimated number of additional prison beds needed which did impact the overall Cost (Savings) table of the fiscal note.

LBO Signature: Jim Carlson **Date:** 2/15/2022 11:21:46 AM
Phone: 651-284-6540 **Email:** jim.carlson@lbo.mn.gov

Revised

State Cost (Savings) Calculation Details

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State Cost (Savings) = 1-2		Biennium			Biennium	
Dollars in Thousands	FY2021	FY2022	FY2023	FY2024	FY2025	
Total	-	-	-	-	-	-
Biennial Total			-			-
1 - Expenditures, Absorbed Costs*, Transfers Out*						
Total	-	-	-	-	-	-
Biennial Total			-			-
2 - Revenues, Transfers In*						
Total	-	-	-	-	-	-
Biennial Total			-			-

Bill Description

This bill amends Minn. Stat. § 609.487 by creating a new subdivision (3a) for culpable negligence. This crime would apply to situations where the perpetrator flees the police in a culpably negligent manner whereby the perpetrator creates an unreasonable risk and consciously takes chances of causing death or great bodily harm to another (but that do not result in death or great bodily harm). This new crime has a statutory maximum of four years or to payment of a fine of not more than \$8,000, or both. The bill also amends Minn. Stat. § 171.174 to add the new culpable negligence subdivision to the list of statutes in which a person's driver's license must be revoked upon conviction.

The bill is effective August 1, 2022 and applies to crimes committed on or after that date.

Assumptions

It is assumed that due to the pandemic, the cases sentenced in 2020 will not be a fair approximation of the number sentenced in the future; therefore, cases sentenced from 2015 to 2019 are used instead to estimate the impact of this bill.

Currently there are four felony fleeing offenses with different statutory maximum based on the level of harm created. Subdivision 3 is the basic fleeing a peace officer in a motor vehicle if the perpetrator knows or should have reason to know that they are fleeing a peace officer and has a statutory maximum of three years. That offense is ranked at Severity Level (SL) 1 and there were 563 cases sentenced in 2019. The other three offenses involve bodily harm or death and are sentenced much less frequently. Subdivision 4(c) is fleeing that results in substantial bodily harm, has a statutory maximum of five years, is ranked at SL 4, and 17 cases were sentenced from 2015-2019. Subdivision 4(b) is fleeing that results in great bodily harm, has a statutory maximum of seven years, is ranked at SL 6, and 4 cases were sentenced from 2015-2019. Subdivision 4(a) is fleeing that results in death, has a statutory maximum of 40 years, is ranked at SL 10, and 6 cases were sentenced from 2015-2019.

Because the new culpable negligence fleeing offense contains all the elements of the basic fleeing offense, it is assumed that all new culpable negligence fleeing cases would have been basic fleeing cases under existing law. Although the number of future sentences for the new offense is not known, it will be less than the 563 basic fleeing sentences annually. It is assumed that the newly required state of mind--culpable negligence, unreasonable risk, and consciously taking chances of causing death or great bodily harm--will not be provably common among fleeing cases, so that the number of culpable-negligence fleeing-offenses will be a small fraction of the existing offenses--perhaps 10 percent, or 56 cases annually.

The Minnesota Sentencing Guidelines Commission assigns severity-level (SL) rankings to new felonies. Among its considerations are statutory maximum penalty and harm to the victim in a typical case. The fleeing offense resulting in substantial bodily harm has a five-year statutory maximum penalty and is ranked at SL 4. Because the new offense lacks the element of harm and has a four-year statutory maximum penalty, it is assumed that the new offense will be ranked lower, at SL 3. At SL 3, offenses with a criminal history score (CHS) 4 or more are recommended a prison sentence with presumptive durations that range from 19 to 33 months. From 2015-2019, the average imprisonment rate for SL 3 offenses was 20 percent with an average pronounced duration of 20 months (serve 2/3 = 13 months). From 2015-2019, an average

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of 90 percent of the SL 3 offenses that received probation sentences received local confinement as a condition of probation. The average pronounced confinement time was 88 days (serve 2/3 = 59 days).

Of the 563 SL 1 cases sentenced in 2019; 16 percent received a prison sentence with an average duration of 17.2 months (serving 2/3 term of imprisonment = 11.5 mos.).

Expenditure and/or Revenue Formula

N/A

Long-Term Fiscal Considerations

Based on the above assumptions, there will be an impact from moving 56 cases a year from the existing basic fleeing offense to the reckless or grossly negligent fleeing-offense which will move cases from SL 1 to SL 3. The SL 1 fleeing offenses sentenced in 2019 had an imprisonment rate of 16 percent (89 of the 563 cases), whereas it is estimated that at SL 3 the imprisonment rate will be 20 percent. Therefore, it is estimated that the number of prison cases for the 56 assumed to change severity levels will change from 9 (16% of 56) to 11 (20% of 56). The SL 1 fleeing offenses sentenced in 2019 had an average pronounced sentence of 17.2 months (serve 2/3=11.5 mo.); whereas at SL 3 it is estimated that the average term of imprisonment will be 13 months. Thus, it is estimated that for the 56 cases assumed to switch severity levels, the prison bed need will change from 8.6 beds ((9 cases × 11.5) ÷ 12)) to 11.9 beds ((11 cases × 13) ÷ 12). Thus, it is estimated that these changes will result in the need for 3.3 additional prison beds a year. Allowing six months for implementation, there will be a need for one bed in FY2023, and 3.3 beds in FY2024, and every year after.

Local Fiscal Impact

It is estimated that the provisions of this bill will have a minimal impact on local correctional resources. With 56 cases moving from SL 1 to SL 3, there will be two fewer probation cases (2 more prison cases). At SL 1, the jail rate for the SL 1 fleeing cases sentenced in 2019 was 92.6 percent with an average pronounced confinement time of 63 days (serving 2/3 term of imprisonment = 42 days). For the estimated 47 probation cases at SL 1, among the 56 cases assumed to change severity levels, the estimated local bed need at SL 1 is 5 beds (92.6% of 47=44 cases receiving local conditional confinement time of 42 days =1,848 "jail days" ÷ 365=5.06 local beds).

From 2015 to 2019, an average of 90 percent of the SL 3 offenses that received probation sentences received local confinement as a condition of probation. The average pronounced confinement time was 88 days (serving 2/3 term of imprisonment = 59 days). For the estimated 45 probation cases at SL 3 among the 56 cases assumed to change severity levels, it is estimated that the local bed need will be 6.5 beds (90% of 45 cases=40.5 cases receiving local conditional confinement time of 59 days=2,389 "jail days" ÷ 365=6.5 beds).

References/Sources

2015-2019 MSGC Monitoring Data.

Agency Contact:

Agency Fiscal Note Coordinator Signature: Jill Payne

Date: 2/15/2022 11:08:08 AM

Phone: 651-757-1725

Email: jill.payne@state.mn.us