

SF2573 - 0 - Carjacking Criminal Penalties Established

Chief Author: **Paul Gazelka**
 Committee: **Judiciary And Public Safety Finance And Policy**
 Date Completed: **2/11/2022 6:25:05 PM**
 Lead Agency: **Supreme Court**
 Other Agencies:
 Corrections Dept Public Defense Board
 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	-	-	430	1,307	2,146	
State Total						
General Fund	-	-	430	1,307	2,146	
	Total	-	-	430	1,307	2,146
	Biennial Total			430		3,453

Full Time Equivalent Positions (FTE)	Biennium			Biennium		
	FY2021	FY2022	FY2023	FY2024	FY2025	
Corrections Dept						
General Fund	-	-	4.8	14.5	23.8	
	Total	-	-	4.8	14.5	23.8

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.

LBO Signature: Alyssa Holterman Rosas **Date:** 2/11/2022 6:25:05 PM
Phone: 651-284-6439 **Email:** alyssa.holterman.rosas@lbo.mn.gov

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		-	-	430	1,307	2,146
Total		-	-	430	1,307	2,146
Biennial Total				430		3,453
1 - Expenditures, Absorbed Costs*, Transfers Out*						
Corrections Dept						
General Fund		-	-	430	1,307	2,146
Total		-	-	430	1,307	2,146
Biennial Total				430		3,453
2 - Revenues, Transfers In*						
Corrections Dept						
General Fund		-	-	-	-	-
Total		-	-	-	-	-
Biennial Total				-		-

SF2573 - 0 - Carjacking Criminal Penalties Established

Chief Author: **Paul Gazelka**
 Committee: **Judiciary And Public Safety Finance And Policy**
 Date Completed: **2/11/2022 6:25:05 PM**
 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:** 2/9/2022 7:57:24 PM
Phone: 651-284-6439 **Email:** alyssa.holterman.rosas@lbo.mn.gov

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

SF2573 adds a new statute, Minn. Stat. § 609.2456, which provides that a person who commits simple robbery under section 609.24 or aggravated robbery under section 609.245 where the property taken is a motor vehicle is guilty of carjacking, which is a felony subject to mandatory minimum sentences. The bill also provides that a defendant convicted and sentenced under this statute is not eligible for probation, parole, discharge, work release, or supervised release until the full term of imprisonment is served, and that a court may not stay the imposition or execution of sentence.

Assumptions

It is assumed that the provisions of the bill will not increase case filings as the bill does not create any new criminal offenses and only impacts the sentencing of existing offenses.

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 cases.

Long-Term Fiscal Considerations

None

Local Fiscal Impact

References/Sources

Agency Contact:

Agency Fiscal Note Coordinator Signature: Janet Marshall

Phone: 651-297-7579

Date: 2/9/2022 7:36:20 PM

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

SF2573 - 0 - Carjacking Criminal Penalties Established

Chief Author: **Paul Gazelka**
 Committee: **Judiciary And Public Safety Finance And Policy**
 Date Completed: **2/11/2022 6:25:05 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.

State Cost (Savings)	Biennium			Biennium		
	Dollars in Thousands	FY2021	FY2022	FY2023	FY2024	FY2025
General Fund	-	-	430	1,307	2,146	
Total	-	-	430	1,307	2,146	
Biennial Total			430		3,453	

Full Time Equivalent Positions (FTE)	Biennium			Biennium	
	FY2021	FY2022	FY2023	FY2024	FY2025
General Fund	-	-	4.8	14.5	23.8
Total	-	-	4.8	14.5	23.8

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: Jim Carlson **Date:** 2/11/2022 4:02:22 PM
Phone: 651-284-6540 **Email:** jim.carlson@lbo.mn.gov

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	-	-	430	1,307	2,146	
Total	-	-	430	1,307	2,146	
Biennial Total			430		3,453	
1 - Expenditures, Absorbed Costs*, Transfers Out*						
General Fund	-	-	430	1,307	2,146	
Total	-	-	430	1,307	2,146	
Biennial Total			430		3,453	
2 - Revenues, Transfers In*						
General Fund	-	-	-	-	-	
Total	-	-	-	-	-	
Biennial Total			-		-	

Bill Description

The proposed legislation would add a new felony for carjacking. Carjacking while committing simple robbery would have a 2-year mandatory minimum and a 15-year statutory maximum or a fine of not more than \$30,000, or both. Carjacking while committing second-degree aggravated robbery would have a 4-year mandatory minimum and a 20-year statutory maximum or a fine of not more than \$35,000, or both. Carjacking while committing first-degree aggravated robbery would have a 6-year mandatory minimum and a 25-year statutory maximum or a fine of not more than \$40,000, or both. Individuals convicted and sentenced for carjacking would not be eligible for early release before the end of the term of imprisonment. The court may not stay imposition or execution of the sentence.

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. Cases sentenced in 2019 are used to estimate the impact of this bill.

The MSGC assumes this bill would prohibit all departures from the mandatory minimums it establishes.

Refer to the fiscal note from the MSGC for details on their assumptions that lead to the estimates for prison bed impact. Based on their assumptions the estimated prison bed impact as a result of this bill would be a need for an additional 261 beds each year. The estimated year-by-year prison bed impact would be an additional 45 beds in FY2023, 108 beds in FY2024, and 153 beds in FY2025; eventually reaching 261 beds in FY2032 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..

Expenditure and/or Revenue Formula

Costs/(Savings) for Prison Beds - DOC

Fiscal Year	2021	2022	2023	2024	2025
Number of Prison Beds	0	0	45	108	153
Cost of Prison Beds (in 000s)	\$0	\$0	\$430	\$1,307	\$2,146
FTEs	0	0	4.8	14.5	23.8

Long-Term Fiscal Considerations

Costs would continue increase each year, reaching \$4,113,000 in FY2033 and each subsequent year.

Local Fiscal Impact

There would be some savings to local correctional resources because the bill mandates all carjackings would be subject to mandatory minimum prison sentences, and not probation sentences. The MSGC estimates there would be a savings of 24 local jail beds statewide.

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: 2/11/2022 2:58:24 PM

Email: Chris.Dodge@state.mn.us

SF2573 - 0 - Carjacking Criminal Penalties Established

Chief Author: **Paul Gazelka**
 Committee: **Judiciary And Public Safety Finance And Policy**
 Date Completed: **2/11/2022 6:25:05 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:** 2/2/2022 1:20:39 PM
Phone: 651-284-6439 **Email:** alyssa.holterman.rosas@lbo.mn.gov

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

The bill would establish the crime of car jacking and prescribe penalties.

Assumptions

Carjacking crimes are currently charged out as a felony either as theft or other if there are occupants in the vehicle. These cases are public defender cases, so there would be little if any impact on public defender caseloads or workloads.

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: 2/2/2022 1:13:20 PM

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

SF2573 - 0 - Carjacking Criminal Penalties Established

Chief Author: **Paul Gazelka**
 Committee: **Judiciary And Public Safety Finance And Policy**
 Date Completed: **2/11/2022 6:25:05 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	

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: Jim Carlson **Date:** 2/11/2022 11:05:35 AM
Phone: 651-284-6540 **Email:** jim.carlson@lbo.mn.gov

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 Dollars in Thousands	Biennium			Biennium	
	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 establishes a new felony for carjacking codified as Minn. Stat. § 609.2456. Subdivision 1 defines carjacking as the existing simple robbery or aggravated robbery where the personal property taken is a motor vehicle. Subdivision 2 contains the statutory maximums and subdivision 3 contains mandatory minimums prison sentences of 2, 4, and 6 years. Mandatory minimums and statutory maximums depend on the offense, as follows:

- Carjacking while committing simple robbery under Minn. Stat. § 609.24 has a 2-year mandatory minimum and 15-year statutory maximum or a fine of not more than \$30,000, or both.
- Carjacking while committing second-degree aggravated robbery under Minn. Stat. § 609.245, subdivision 2, has a 4-year mandatory minimum and 20-year statutory maximum or a fine of not more than \$35,000, or both.
- Carjacking while committing first-degree aggravated robbery under Minn. Stat. § 609.245, subdivision 1, has a 6-year mandatory minimum and 25-year statutory maximum or a fine of not more than \$40,000, or both.

Defendants convicted and sentenced for carjacking are not eligible for early release before the end of the term of imprisonment. The court may not stay imposition or execution of the sentence.

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

Assumptions

By employing mandatory language “shall be committed,” “full term of imprisonment,” and “may not stay” without permitting waiver, the bill establishes mandatory minimums that closely resemble the mandatory minimum found to be nonwaivable in *State v. Turck* (Minn. App. 2007). It is therefore assumed that the bill prohibits all departures from the mandatory minimums it establishes.

MSGC case-volume data in 2020 fell by more than 30 percent. It is assumed that due to the COVID-19 health pandemic, the cases sentenced in 2020 will not be a fair approximation of the number sentenced in the future; therefore, cases sentenced in 2019 are used instead to estimate the impact of this bill.

According to MSGC Monitoring data, there were 356 robbery cases sentenced in 2019. The distribution was 147 (41.3%) simple robbery; 47 (13.2%) second-degree aggravated robbery; and 162 (45.5%) first-degree aggravated robbery. It is assumed that a similar number and distribution of robberies will occur in future years.

Of the 356 robberies sentenced in 2019, the number where the property stolen was a motor vehicle is not known. According to the Bureau of Criminal Apprehension (BCA), there were 3,898 robberies reported by law enforcement agencies in 2021, of which 1,645 (42.2%) were carjacking. It is therefore assumed that 42.2 percent of robberies committed after the effective date of this bill will be subject to the bill’s penalties. It is assumed that those carjackings will be distributed by degrees consistent with the distribution of robbery sentences in 2019.

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 Commission may also leave the offense unranked. Simple robbery is ranked at SL 5; second-degree aggravated robbery is ranked at SL 6; and first-degree aggravated robbery is ranked at SL 8.

Because carjacking and robbery are the same crime except for the additional element that the personal property taken is a motor vehicle and because the statutory maximums for carjacking are five years higher than those for robbery, it is assumed that the Commission will rank carjacking at least one SL higher than its robbery counterpart, as follows: carjacking while committing simple robbery under Minn. Stat. § 609.24, will be ranked at SL 6; carjacking while committing second-degree aggravated robbery under Minn. Stat. § 609.245, subdivision 2, will be ranked at SL 8; and carjacking while committing first-degree aggravated robbery under Minn. Stat. § 609.245, subdivision 1, will be ranked at SL 9.

Applying the above assumptions, the bill will move 62 (147 × 42.2%) simple robbery cases from SL 5 to SL 6 annually, but with an executed prison sentence presumed at all criminal history scores; 20 (47 × 42.2%) second-degree aggravated robbery cases from SL 6 to SL 8 annually; and 68 (162 × 42.2%) first-degree aggravated robbery cases from SL 8 to SL 9 annually. The total number of carjacking cases is assumed to be 150 cases annually. It is assumed that all of these 150 cases will receive executed prison sentences of at least the mandatory minimum statutory duration. Of the existing robbery cases, 23 percent received mitigated dispositional departures. In the future, it is assumed that cases that received stays of execution will receive the mandatory minimum duration or duration in the applicable cell on the Guidelines Standard Grid, whichever is greater; and that those cases that received stays of imposition will receive the mandatory minimum duration.

The pool of 356 existing robbery cases upon which these assumptions are based includes nine juvenile cases (2.5%) certified to adult court. It is assumed that, under Minn. Stat. § 260B.125, certification to adult court is more likely when the offense is a presumptive prison commit under the Sentencing Guidelines. As all juvenile carjacking cases will become presumptive prison commits under the bill, more juvenile carjacking cases may be certified to adult court and, if convicted, will be sentenced to prison. This change is unlikely to affect certifications for first-degree aggravated robbery carjacking, as first-degree aggravated robbery is already a presumptive commit, but it is more likely to affect certifications for second-degree aggravated robbery carjacking and simple robbery carjacking, which are now presumptive commits only at higher criminal history scores. Because the number of juvenile carjacking cases involving second-degree aggravated robbery and simple robbery is not known, and the future rate of certification for those offenses is not known, the prison-bed impact of this bill on children is not estimated. Such impact may not be insignificant, however, as 2021 police reports indicated that the carjacker was under 18 in most (136 out of 261) of the cases in which the age of the suspect was known (which was only 16 percent of all carjacking cases (261 of 1,645) reported by police).

Expenditure and/or Revenue Formula

N/A

Long-Term Fiscal Considerations

Based on the assumptions above, the eventual estimated prison-bed impact is a need of 261 beds by year 2032: 221 beds from cases that will move from probation to prison; and 40 beds from cases that will continue to receive prison but for more time; i.e., at least the mandatory minimum duration. This eventual prison-bed cost is displayed, by offense, in the table below.

Prison-Bed Need by Offense

Offense	Number Cases	Beds
Simple Carjacking	62	70
Second-Degree Aggravated Carjacking	20	37
First-Degree Aggravated Carjacking	68	154
Total	150	261

This impact may be understated if the increased carjacking penalties for robbery particularly for simple robbery and second-degree aggravated robbery cause a significant increase in the number of children certified to adult court, convicted, and sentenced to prison.

The timing of the prison-bed need is 45 beds in 2023, 108 beds in 2024, 153 beds in 2025, 204 beds in 2026, 221 beds in 2027, 227 beds in 2028, 235 beds in 2029, 248 beds in 2030, 254 beds in 2031, and 261 beds in 2032 and every year

after as displayed in the table, below.

Prison-Bed Timing

Year	Estimated Prison-Beds Needed
2023	45
2024	108
2025	153
2026	204
2027	221
2028	227
2029	235
2030	248
2031	254
2032	261

Local Fiscal Impact

Because this bill mandates that all carjackings will be subject to mandatory minimum prison sentences that cannot be waived, there will be some savings to local jurisdiction from people no longer receiving probation sentences. Currently, 211 (59.3%) of the existing robbery cases did not go to prison; and 200 (94.8%) received local conditional confinement time pronounced as part of their probation sentence. The average pronounced duration was 148 days (serve 2/3 = 98 days). It is estimated that the provisions of this bill will result in 89 fewer probation sentences (211 × 42.2%) and 88 fewer cases serving local conditional confinement time (200 × 42.2%) which will result in a savings of 24 local beds statewide (88 × 98 = 8,624 "jail days" ÷ 365 = 24 local beds).

References/Sources

2019 MSGC Monitoring data.

State v. Turck, 728 N.W.2d 544 (Minn. App. 2007), *review denied* (Minn. May 30, 2007).

Minn. Bureau of Criminal Apprehension "*Minnesota 2021 Preliminary Crime Data v1.2*" (Jan. 21, 2022).

Agency Contact:

Agency Fiscal Note Coordinator Signature: Jill Payne

Date: 2/11/2022 10:23:10 AM

Phone: 651-757-1725

Email: jill.payne@state.mn.us