

December 09, 2021

Kelly Mitchell, Chair, and
Nathaniel Reitz, Executive Director
Minnesota Sentencing Guidelines Commission
658 Cedar Street, Suite G-58
St. Paul, MN 55155

RE: Public Hearing on Custody Status Points Repeal Proposal

Dear Chair Mitchell and Sentencing Guidelines Commission Members:

This letter is in response to the request for public comment on the Minnesota Sentencing Guidelines Commission (MSGC) proposed repeal of an offender's custody status in determining the offender's criminal history score.

We, the undersigned members of the Minnesota House of Representatives, are vehemently opposed to this proposal. It is counter to government's foundational role to provide for the security and protection of its citizens which is so vitally important that it is in Article 1, Section 1 of the Minnesota Constitution.

If enacted, this proposal would result in many offenders receiving probation who under current guidelines would go to prison. Other offenders who are incarcerated would receive less prison time as well. MSGC staff have estimated that this proposal would result in a 536 prison bed reduction: 327 from cases moving from prison to probation and 209 beds from shorter prison sentences.

Recidivism from offenders released from prison continues to be a problem. The 2020 Minnesota Department of Corrections Annual Performance Report states that since 2011, roughly one-fourth of incarcerated offenders released each year have returned to prison with a new felony conviction within three years of release. Incarcerating offenders for a shorter amount of time would result in even more recidivism and further weaken public safety.

Perhaps most troublesome is that the proposal strikes all custody points across the board, including sex offenses, which are among the most egregious crimes. Under current guidelines, sex offenses are assigned two custody status points. The rationale, in the Commission's own words is that "(t)he Commission believes that offenders who commit a subsequent sex offense pose so significant a risk to public safety that their criminal history scores should be enhanced to reflect this risk" in (Commentary 2.B.210).

In addition, it is our understanding that the position for the victim of a crime on the Sentencing Guidelines Commission was not seated for the vote that took place last month. How can the Commission consider a proposal that would release criminal offenders to the streets without the input of the victims directly impacted by crime?

When the Commission reduced custody status points from one point to a half point in 2019, it led to disparities in sentencing due to some judges rounding up while others rounded down. The Commission should have amended the sentencing guidelines grids to reflect half points at that time. This approach is reflected in the alternative proposal before the Commission. The alternate proposal should be given favorable consideration, rather than eliminating custody status points altogether.

As elected members of the Minnesota House of Representatives, our priority to our constituents and all Minnesotans is to ensure the public is protected from criminals. When an offender currently under supervision for a crime commits another crime, that aggravating factor needs to be reflected by an enhanced sentence.

We strongly implore the Sentencing Guidelines Commission to reject the proposal to repeal an offender's custody status in determining the offender's criminal history score.

Sincerely,



Representative Kurt Daudt
House Minority Leader



Representative Anne Neu Brindley
House Deputy Minority Leader



Representative Brian Johnson
GOP Lead, House Public Safety Committee



Representative Peggy Scott
GOP Lead, Judiciary & Civil Law Committee



Representative Tony Albright



Representative Susan Akland



Representative Paul Anderson



Representative Jeff Backer



Representative Dave Baker



Representative Matt Bliss



Representative John Burkel



Representative Greg Davids



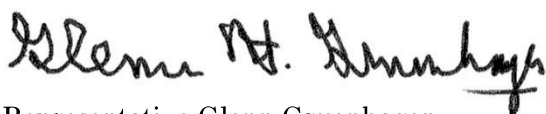
Representative Bob Dettmer



Representative Mary Franson



Representative Steve Green



Representative Glenn Gruenhagen



Representative Rod Hamilton



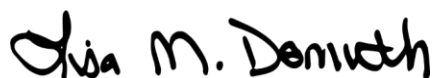
Representative Peggy Bennett



Representative Greg Boe



Representative Brian Daniels



Representative Lisa Demuth



Representative Sondra Erickson



Representative Pat Garofalo



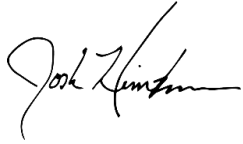
Representative Matt Grossell



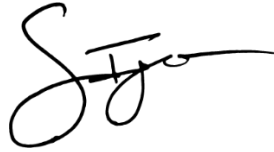
Representative Barb Haley



Representative John Heinrich



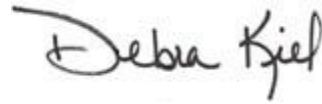
Representative Josh Heintzeman



Representative Spencer Igo



Representative Tony Jurgens



Representative Deb Kiel



Representative Jon Koznick



Representative Ron Kresha



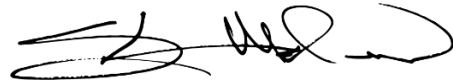
Representative Eric Lucero




Representative Dale Lueck



Representative Joe McDonald



Representative Shane Mekeland



Representative Patricia Mueller



Representative Jim Nash



Representative Nathan Nelson



Representative Paul Novotny



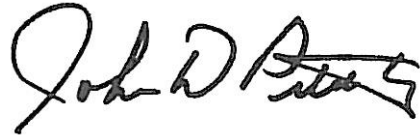
Representative Tim O'Driscoll



Representative Bjorn Olson



Representative Marion O'Neill



Representative John Petersburg



Representative Brian Pfarr



Representative John Poston



Representative Donald Raleigh



Representative Kristin Robbins



Representative Chris Swedzinski



Representative Paul Torkelson



Representative Nolan West



Representative Nels Pierson



Representative Duane Quam



Representative Jordan Rasmusson



Representative Joe Schomacker



Representative Tama Theis



Representative Dean Urdahl