

Written Testimony in Support of SF 2908
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I write in support of SF 2908, which would reform the clemency process in Minnesota. My interest in clemency is not casual. A former federal prosecutor, I moved to Minnesota in 2010 from a tenured position at Baylor in part because St. Thomas would allow me to start a clinic focused on federal clemency. It is the first such clinic in the nation. My writing on clemency has appeared in the New York Times, the Washington Post, the University of Chicago Law Review and many other places.

Several years ago, I began attending the clemency hearings here in St. Paul, which are conducted twice a year. What I found was a process that was dramatic and engaging but also inefficient, intimidating and ultimately unproductive. Over the past four years both petitions and grants have gone up relative to the past few decades, but even with that only an average of 34 petitions have been granted in the period from 2019-2022. That pales in comparison to many of our peers. South Dakota (with a population that is one-sixth of ours) typically grants more clemency petitions per year, and compared to our 34 grants a year, Wisconsin has averaged 193 over the past four years.

This matters because of the crucial role that clemency plays in the criminal law system as a whole. It rewards rehabilitation, reconciliation, and redemption without imperiling public safety. In Minnesota, clemency does not mean (and would not mean if this bill is passed) releasing masses of people from prison. The vast majority of those who seek and receive clemency here are citizens who have completed their sentence, reestablished themselves in their community, and seek a pardon so they can further their career or engage in activities with their family, such as hunting with a grandchild.

This bill offers simple, commonsense solutions to our clemency issues. It would create a clemency commission to relieve the load on the governor, attorney general and chief justice, while taking over administrative duties currently burdening the department of corrections. The bill also would remove a unanimous voting requirement, eliminate the distinction between a pardon and “pardon extraordinary,” and ensure that the commission and the board provide translation and interpretation services. Critically, the bill further requires that service and support be provided to crime victims throughout the process. This is important because the process can be confusing and frustrating for some victims, and some of the most powerful clemency applications are those supported by the victims themselves.

Clemency was embraced by the founding fathers because it embodies a virtue that nearly all societies honor. In my own faith tradition, people often cite to Micah 6:8, which says this: “He has shown you, O mortal, what is good. And what does the Lord require of you? To act justly and to love mercy and to walk humbly with your God.” My hope is that through this new law, the state I love will move humbly towards an embrace of both justice and mercy.