

1.1 Senator moves to amend S.F. No. 1478 as follows:

1.2 Delete everything after the enacting clause and insert:

1.3 "Section 1. Minnesota Statutes 2022, section 609.05, is amended by adding a subdivision
1.4 to read:

1.5 Subd. 2a. **Exception.** (a) A person may not be held criminally liable for a violation of
1.6 section 609.185, paragraph (a), clause (3), for a death caused by another unless the person
1.7 intentionally aided, advised, hired, counseled, or conspired with or otherwise procured the
1.8 other with the intent to cause the death of a human being.

1.9 (b) A person may not be held criminally liable for a violation of section 609.19,
1.10 subdivision 2, clause (1), for a death caused by another unless the person was a major
1.11 participant in the underlying felony and acted with extreme indifference to human life.

1.12 (c) A "major participant" under paragraph (b) is one who:

1.13 (1) used a deadly weapon during the commission of the underlying felony or provided
1.14 a deadly weapon to another participant where it was reasonably foreseeable that the weapon
1.15 would be used in the underlying felony;

1.16 (2) was not present at the time of the commission of the underlying felony but coerced
1.17 a participant to undertake actions in furtherance of the underlying felony that proximately
1.18 caused the death, and where it was reasonably foreseeable that such actions would cause
1.19 death or great bodily harm; or

1.20 (3) impeded another person from preventing the death either by physical action or by
1.21 threat of physical action when it was reasonably foreseeable that death or great bodily harm
1.22 would result.

1.23 **EFFECTIVE DATE.** This section is effective August 1, 2023, and applies to crimes
1.24 committed on or after that date.

1.25 Sec. 2. **LIABILITY FOR MURDER COMMITTED BY ANOTHER; RETROACTIVE**
1.26 **APPLICATION.**

1.27 Subdivision 1. **Purpose.** Any person who is in the custody of the commissioner of
1.28 corrections, on supervised release or parole, or under court supervision is entitled to petition
1.29 to have the person's conviction vacated pursuant to this section if the person was:

1.30 (1) charged with aiding and abetting first-degree murder under Minnesota Statutes,
1.31 section 609.185, paragraph (a), clause (3), and thereafter convicted of a violation of

2.1 Minnesota Statutes, section 609.185, paragraph (a), clause (3); 609.19, subdivision 1, clause
2.2 (1); or 609.19, subdivision 2, clause (1); or

2.3 (2) charged with aiding and abetting second-degree unintentional murder under Minnesota
2.4 Statutes, section 609.19, subdivision 2, clause (1), and thereafter convicted of a violation
2.5 of Minnesota Statutes, section 609.185, paragraph (a), clause (3); 609.19, subdivision 1,
2.6 clause (1); or 609.19, subdivision 2, clause (1).

2.7 Any person charged and convicted as described in this subdivision who is not in the custody
2.8 of the commissioner of corrections, on supervised release or parole, or under court
2.9 supervision may petition the Board of Pardons for the granting of a pardon extraordinary
2.10 pursuant to subdivision 7.

2.11 Subd. 2. **Notification.** (a) By December 1, 2023, the commissioner of corrections shall
2.12 notify individuals convicted for a violation of Minnesota Statutes, section 609.185, paragraph
2.13 (a), clause (3); 609.19, subdivision 1, clause (1); or 609.19, subdivision 2, clause (1), of the
2.14 right to file a preliminary application for relief if:

2.15 (1) the person was convicted for a violation of Minnesota Statutes, section 609.185,
2.16 paragraph (a), clause (3), and did not actually cause the death of a human being or
2.17 intentionally aid, advise, hire, counsel, or conspire with or otherwise procure another with
2.18 the intent to cause the death of a human being;

2.19 (2) the person was convicted for a violation of Minnesota Statutes, section 609.19,
2.20 subdivision 2, clause (1), and did not actually cause the death of a human being or was not
2.21 a major participant, as described in Minnesota Statutes, section 609.05, subdivision 2a,
2.22 paragraph (c), in the underlying felony who acted with extreme indifference to human life;
2.23 or

2.24 (3) the person was charged with aiding and abetting first-degree murder under Minnesota
2.25 Statutes, section 609.185, paragraph (a), clause (3), or second-degree unintentional murder
2.26 under Minnesota Statutes, section 609.19, subdivision 2, clause (1), and thereafter convicted
2.27 for a violation of Minnesota Statutes, section 609.19, subdivision 1, clause (1), and did not
2.28 actually cause the death of a human being or was not a major participant, as described in
2.29 Minnesota Statutes, section 609.05, subdivision 2a, paragraph (c), in the underlying felony
2.30 who acted with extreme indifference to human life.

2.31 (b) The notice shall include the address of Ramsey County District Court administration.

2.32 (c) The commissioner of corrections may coordinate with the judicial branch to establish
2.33 a standardized notification form.

3.1 Subd. 3. Preliminary application. (a) An applicant shall submit a preliminary application
3.2 to the Ramsey County District Court. The preliminary application must contain:

3.3 (1) the applicant's name and, if different, the name under which the person was convicted;

3.4 (2) the applicant's date of birth;

3.5 (3) the district court case number of the case for which the person is seeking relief;

3.6 (4) a statement as to whether the applicant was convicted following a trial or pursuant
3.7 to a plea;

3.8 (5) a statement as to whether the person filed a direct appeal from the conviction, a
3.9 petition for postconviction relief, or both;

3.10 (6) a brief statement, not to exceed 3,000 words, explaining why the applicant is entitled
3.11 to relief under this section from a conviction for the death of a human being caused by
3.12 another; and

3.13 (7) the name and address of any attorney representing the applicant.

3.14 (b) The preliminary application may contain:

3.15 (1) the name, date of birth, and district court case number of any other person charged
3.16 with, or convicted of, a crime arising from the same set of circumstances for which the
3.17 applicant was convicted; and

3.18 (2) a copy of a criminal complaint or indictment, or the relevant portions of a presentence
3.19 investigation or life imprisonment report, describing the facts of the case for which the
3.20 applicant was convicted.

3.21 (c) The judicial branch may establish a standardized preliminary application form, but
3.22 shall not reject a preliminary application for failure to use a standardized form.

3.23 (d) Any person seeking relief under this section must submit a preliminary application
3.24 no later than October 1, 2024. Submission is complete upon mailing.

3.25 (e) Submission of a preliminary application shall be without costs or any fees charged
3.26 to the applicant.

3.27 Subd. 4. Review of preliminary application. (a) Upon receipt of a preliminary
3.28 application, the court administrator of the Ramsey County District Court shall immediately
3.29 direct attention of the filing thereof to the chief judge or judge acting on the chief judge's
3.30 behalf who shall promptly assign the matter to a judge in said district.

4.1 (b) The judicial branch may appoint a special master to review preliminary applications
4.2 and may assign additional staff as needed to assist in the review of preliminary applications.

4.3 (c) The reviewing judge shall determine whether, in the discretion of that judge, there
4.4 is a reasonable probability that the applicant is entitled to relief under this section.

4.5 (d) In making the determination under paragraph (c), the reviewing judge shall consider
4.6 the preliminary application and any materials submitted with the preliminary application
4.7 and may consider relevant records in the possession of the judicial branch.

4.8 (e) The court may summarily deny an application when the applicant is not in the custody
4.9 of the commissioner of corrections, on supervised release or parole, or under court
4.10 supervision; was not convicted of a violation of Minnesota Statutes, section 609.185,
4.11 paragraph (a), clause (3); 609.19, subdivision 1, clause (1); or 609.19, subdivision 2, clause
4.12 (1), before August 1, 2023; or the only issues raised in the application are not relevant to
4.13 the relief available under this section.

4.14 (f) If the reviewing judge determines that there is a reasonable probability that the
4.15 applicant is entitled to relief, the judge shall send notice to the applicant and the applicant's
4.16 attorney, if any, and the prosecutorial office responsible for prosecuting the applicant. In
4.17 the event the applicant is without counsel, the reviewing judge shall send notice to the state
4.18 public defender and shall advise the applicant of such referral.

4.19 (g) If the reviewing judge determines that there is not a reasonable probability that the
4.20 applicant is entitled to relief, the judge shall send notice to the applicant and the applicant's
4.21 attorney, if any. The notice must contain a brief statement explaining the reasons the
4.22 reviewing judge concluded that there is not a reasonable probability that the applicant is
4.23 entitled to relief.

4.24 Subd. 5. **Petition for relief; hearing.** (a) Unless extended for good cause, within 60
4.25 days of receipt of the notice sent pursuant to subdivision 4, paragraph (f), the individual
4.26 seeking relief shall file and serve a petition to vacate the conviction. The petition must be
4.27 filed in the district court of the judicial district in the county where the conviction took place
4.28 and must contain the information identified in subdivision 3, paragraph (a), and a statement
4.29 of why the petitioner is entitled to relief under this section. The petition may contain any
4.30 other relevant information including police reports, trial transcripts, and plea transcripts
4.31 involving the petitioner or any other person investigated for, charged with, or convicted of
4.32 a crime arising out of the same set of circumstances for which the petitioner was convicted.
4.33 The filing of the petition and any document subsequent thereto and all proceedings thereon
4.34 shall be without costs or any fees charged to the petitioner.

5.1 (b) Upon receipt of the petition, the prosecutor shall make a good faith and reasonable
5.2 effort to notify any person determined to be a victim of the underlying offense that a petition
5.3 has been filed.

5.4 (c) A county attorney representing the prosecutorial office shall respond to the petition
5.5 by answer or motion within 45 days after the filing of the petition pursuant to paragraph
5.6 (a), unless extended for good cause. The response shall be filed with the court administrator
5.7 of the district court and served on the petitioner if unrepresented or on the petitioner's
5.8 attorney. The response may serve notice of the intent to support the petition or include a
5.9 statement explaining why the petitioner is not entitled to relief along with any supporting
5.10 documents. The filing of the response and any document subsequent thereto and all
5.11 proceedings thereon shall be without costs or any fees charged to the county attorney.

5.12 (d) The petitioner may file a reply to the response filed by the county attorney within
5.13 15 days after the petitioner receives the response, unless extended for good cause.

5.14 (e) Within 30 days of receipt of the reply from the petitioner or, if no reply is filed,
5.15 within 30 days of receipt of the response from the county attorney, the court shall:

5.16 (1) issue an order pursuant to subdivision 6 and schedule the matter for sentencing or
5.17 resentencing pursuant to subdivision 6, paragraph (e), if the county attorney indicates an
5.18 intent to support the petition;

5.19 (2) issue an order denying the petition without prejudice if additional information or
5.20 submissions establish that there is not a reasonable probability that the applicant is entitled
5.21 to relief under this section and a memorandum identifying the additional information or
5.22 submissions and explaining the reasons why the court concluded that there is not a reasonable
5.23 probability that the applicant is entitled to relief; or

5.24 (3) schedule the matter for a hearing and issue any appropriate order regarding submission
5.25 of evidence or identification of witnesses.

5.26 (f) The hearing shall be held in open court and conducted pursuant to Minnesota Statutes,
5.27 section 590.04, except that the petitioner must be present at the hearing, unless excused
5.28 under Rules of Criminal Procedure, rule 26.03, subdivision 1, clause (3). The prosecutor
5.29 shall make a good faith and reasonable effort to notify any person determined to be a victim
5.30 of the hearing.

5.31 Subd. 6. **Determination; order; resentencing.** (a) A petitioner who was convicted of
5.32 a violation of Minnesota Statutes, section 609.185, paragraph (a), clause (3), is entitled to
5.33 relief if the petitioner shows by a preponderance of the evidence that the petitioner:

6.1 (1) did not cause the death of a human being; and

6.2 (2) did not intentionally aid, advise, hire, counsel, or conspire with or otherwise procure
6.3 another with the intent to cause the death of a human being.

6.4 (b) A petitioner who was convicted of a violation of Minnesota Statutes, section 609.19,
6.5 subdivision 2, clause (1), is entitled to relief if the petitioner shows by a preponderance of
6.6 the evidence that the petitioner:

6.7 (1) did not cause the death of a human being; and

6.8 (2) was not a major participant, as described in Minnesota Statutes, section 609.05,
6.9 subdivision 2a, paragraph (c), in the underlying felony and did not act with extreme
6.10 indifference to human life.

6.11 (c) A petitioner who was charged with aiding and abetting first-degree murder under
6.12 Minnesota Statutes, section 609.185, paragraph (a), clause (3), and thereafter convicted of
6.13 a violation of Minnesota Statutes, section 609.19, subdivision 1, clause (1), is entitled to
6.14 relief if the petitioner shows by a preponderance of the evidence that the petitioner:

6.15 (1) did not cause the death of a human being; and

6.16 (2) was not a major participant, as described in Minnesota Statutes, section 609.05,
6.17 subdivision 2a, paragraph (c), in the underlying felony and did not act with extreme
6.18 indifference to human life.

6.19 (d) A petitioner who was charged with aiding and abetting second-degree unintentional
6.20 murder under Minnesota Statutes, section 609.19, subdivision 2, clause (1), and thereafter
6.21 convicted of a violation of Minnesota Statutes, section 609.19, subdivision 1, clause (1), is
6.22 entitled to relief if the petitioner shows by a preponderance of the evidence that the petitioner:

6.23 (1) did not cause the death of a human being; and

6.24 (2) was not a major participant, as described in Minnesota Statutes, section 609.05,
6.25 subdivision 2a, paragraph (c), in the underlying felony and did not act with extreme
6.26 indifference to human life.

6.27 (e) If the court determines that the petitioner does not qualify for relief, the court shall
6.28 issue an order denying the petition. If the court determines that the petitioner is entitled to
6.29 relief, the court shall issue an order vacating the conviction for a violation of Minnesota
6.30 Statutes, section 609.185, paragraph (a), clause (3), or 609.19, subdivision 2, clause (1),
6.31 and either:

7.1 (1) resentence the petitioner for the most serious remaining offense for which the
7.2 petitioner was convicted; or

7.3 (2) enter a conviction and impose a sentence for the most serious predicate felony arising
7.4 out of the course of conduct that served as the factual basis for the conviction vacated by
7.5 the court.

7.6 (f) The new sentence announced by the court under this section must be for the most
7.7 serious predicate felony unless the most serious remaining offense for which the petitioner
7.8 was convicted is that offense or a more serious offense.

7.9 (g) The court shall state in writing or on the record the reasons for its decision on the
7.10 petition.

7.11 (h) If the court intends to resentence a petitioner or impose a sentence on a petitioner,
7.12 the court must hold the hearing at a time that allows any victim an opportunity to submit a
7.13 statement consistent with Minnesota Statutes, section 611A.038. The prosecutor shall make
7.14 a good faith and reasonable effort to notify any person determined to be a victim of the
7.15 hearing and the right to submit or make a statement. A sentence imposed under this
7.16 subdivision shall not increase the petitioner's period of confinement or, if the petitioner was
7.17 -serving a stayed sentence, increase the period of supervision. A person resentenced under
7.18 this paragraph is entitled to credit for time served in connection with the vacated offense.

7.19 (i) Relief granted under this section shall not be treated as an exoneration for purposes
7.20 of the Incarceration and Exoneration Remedies Act.

7.21 (j) Appeals from an order of the court issued under this subdivision may be made pursuant
7.22 to Minnesota Statutes, section 590.06.

7.23 **Subd. 7. Application for pardon.** (a) Notwithstanding Minnesota Statutes, section
7.24 638.02, subdivision 2, any person charged with aiding and abetting first-degree murder
7.25 under Minnesota Statutes, section 609.185, paragraph (a), clause (3), and thereafter convicted
7.26 of a violation of Minnesota Statutes, section 609.185, paragraph (a), clause (3); 609.19,
7.27 subdivision 1, clause (1); or 609.19, subdivision 2, clause (1), or charged with aiding and
7.28 abetting second-degree unintentional murder under Minnesota Statutes, section 609.19,
7.29 subdivision 2, clause (1), and thereafter convicted of a violation of Minnesota Statutes,
7.30 section 609.185, paragraph (a), clause (3); 609.19, subdivision 1, clause (1); or 609.19,
7.31 subdivision 2, clause (1), who is not in the custody of the commissioner of corrections, on
7.32 supervised release or parole, or under court supervision may petition the Board of Pardons
7.33 for the granting of a pardon extraordinary at any time after the sentence was discharged.

- 8.1 (b) A petition for a pardon extraordinary filed under this section must show the following:
- 8.2 (1) if the petitioner was convicted of a violation of Minnesota Statutes, section 609.185,
- 8.3 paragraph (a), clause (3), the petitioner:
- 8.4 (i) did not cause the death of a human being; and
- 8.5 (ii) did not intentionally aid, advise, hire, counsel, or conspire with or otherwise procure
- 8.6 another with the intent to cause the death of a human being; or
- 8.7 (2) if the petitioner was convicted of a violation of Minnesota Statutes, section 609.19,
- 8.8 subdivision 1, clause (1), or 609.19, subdivision 2, clause (1), the petitioner:
- 8.9 (i) did not cause the death of a human being; and
- 8.10 (ii) was not a major participant, as described in Minnesota Statutes, section 609.05,
- 8.11 subdivision 2a, paragraph (c), in the underlying felony and did not act with extreme
- 8.12 indifference to human life.
- 8.13 (c) The Board of Pardons shall determine if a petitioner seeking relief under this section
- 8.14 meets the requirements of paragraph (b). The Board of Pardons may consider any relevant
- 8.15 evidence in making this determination.
- 8.16 (d) The petition for a pardon extraordinary filed under this section is otherwise subject
- 8.17 to the requirements of Minnesota Statutes, chapter 638.
- 8.18 **EFFECTIVE DATE.** This section is effective August 1, 2023.
- 8.19 **Sec. 3. TASK FORCE ON AIDING AND ABETTING FELONY MURDER.**
- 8.20 (a) Laws 2021, First Special Session chapter 11, article 2, section 53, subdivisions 2, 3,
- 8.21 4, and 5, are revived and reenacted on the effective date of this section to expand the focus
- 8.22 of the task force's duties and work beyond the intersection of felony murder and aiding and
- 8.23 abetting liability for felony murder to more generally apply to the broader issues regarding
- 8.24 the state's felony murder doctrine and aiding and abetting liability schemes discussed in
- 8.25 "Task Force on Aiding and Abetting Felony Murder," Report to the Minnesota Legislature,
- 8.26 dated February 1, 2022, "The Task Force's recommendations," number 4.
- 8.27 (b) On or before January 15, 2024, the task force shall submit a report to the chairs and
- 8.28 ranking minority members of the house of representatives and senate committees and
- 8.29 divisions with jurisdiction over crime and sentencing on the findings and recommendations
- 8.30 of the task force.

9.1 (c) The task force expires January 16, 2024, or the day after submitting its report under
9.2 paragraph (b), whichever is earlier.

9.3 **EFFECTIVE DATE.** This section is effective the day following final enactment.

9.4 Sec. 4. **TASK FORCE ON AIDING AND ABETTING FELONY MURDER;**
9.5 **APPROPRIATION.**

9.6 \$..... in fiscal year 2024 is appropriated from the general fund to the commissioner of
9.7 corrections to implement the task force on aiding and abetting felony murder."

9.8 Amend the title accordingly