



Minnesota Chiefs of Police Association (MCPA)
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Minnesota Sheriffs' Association (MSA)
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Senate Judiciary Committee Members,

Representing more than 300 police chiefs throughout our state, the Minnesota Chiefs of Police Association (MCPA) and the Minnesota Sheriffs' Association (MSA), representing 87 elected sheriffs, wish to outline our collective position on SF 1478. We do agree that it is time to modernize this section of law. We acknowledge and appreciate the work of the task force on Aiding and Abetting Felony Murder. We support much the task force's work however we have the following questions and concerns:

1. We strongly believe the term "major participant" needs to be defined for purposes of both the prospective and retroactive portions of the proposed legislation.
2. As to the retroactive portion of the legislation, we have the following questions and concerns:
 - Subd. 2(a): This subdivision requires the commissioner of corrections to identify and notify persons who may qualify for relief. It's not clear to us how the commissioner is going to ascertain whether an offender "did not actually cause the death of a human being" as stated in subd. 2(a)(1).
 - Subd. 3: This is the preliminary application process requiring an initial review by a Ramsey County District Court Judge or an appointed special master. We do not see the need for this extra step and believe the application should go directly to the county of conviction for the initial review.
 - Subd. 5: This subdivision addresses the petition for relief. We believe prosecutors sought to be required to notify victims when a petition is filed and that Ch. 611A should be amended requiring that notice be provided.
 - Subd. 5(d): This subdivision provides that the hearing must be conducted in accordance with Minn. Stat. § 590.04 which means the burden of proof of the facts alleged in the petition is on the petitioner to establish the facts by "a fair preponderance of the evidence." Given the remedy being sought, we feel the burden of proof should be "clear and convincing" at the very least.

- Subd. 6(c): If a judge grants the petition, this subdivision requires the judge to issue an order vacating the conviction and either: (1) resentence the petitioner for any other offense for which the petitioner was convicted; or (2) enter a conviction and impose a sentence for any other “predicate felony” arising out of the course of conduct that served as the factual basis for the conviction vacated by the court. If a judge grants a petition that was not agreed to by the prosecutor, we think the matter should be scheduled for a resentencing hearing at which the petitioner and prosecutor can make argument to the court as to which offense should be resented. So, if the petitioner was convicted of more than one other offense at trial or if there was more than one applicable predicate felony, the parties have the ability to argue as to which offense the defendant should be resented on.
- It is not clear to us that the parties have the right to appeal the court’s decision. We think a subdivision should be added providing that the parties have the ability to appeal and either set the language out in the statute or reference Minn. Stat. § 590.06.

We look forward to working with the author and committee to address these questions and concerns.

Respectfully,



Jeff Potts
Executive Director
Minnesota Chief of Police Association



William M. Hutton
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