

Minnesota Senate

Minnesota Senate Building
95 West University Avenue
Saint Paul, Minnesota 55155



Minnesota House

State Office Building
100 Rev. Dr. Martin Luther King Jr. Blvd.
Saint Paul, Minnesota 55155

8/18/2023

House and Senate Judiciary and Public Safety Committees

St. Paul, Minnesota 55155

To Whom It May Concern:

We write this letter to clarify our legislative intent with respect to the retroactive relief provision for certain persons convicted of aiding and abetting felony murder contained in Laws 2023, chapter 52, article 4, section 24.

As enacted, this provision authorizes retroactive relief in certain cases for a person convicted of second-degree unintentional murder while committing or attempting to commit a felony offense when the conviction is based on an accomplice liability theory. This provision was a companion section to a separate one that prohibited a similarly situated person from being convicted of this crime moving forward. Thus, the two provisions taken together were intended to prevent the described persons from being convicted of this crime in the future and to provide relief to those that had been convicted in the past.

The provision creating a prospective change to the statute creating liability for crimes committed by another (Laws 2023, chapter 52, article 4, section 3) prohibits a conviction for unintentional murder in the second degree while committing or attempting to commit a felony offense (609.19, subdivision 2, clause (1)) if the death was caused by another unless the person was both a major participant in the underlying felony and acted with extreme indifference to human life. If either factor is missing, a person cannot be convicted. This provision accurately reflects our intent.

However, to obtain retroactive relief, a court must find that the petitioner was not a major participant and did not act with extreme indifference to human life. Both factors must be missing for a person to receive relief. This provision does not reflect our intent as legislators and is an error.

Our intent was that the prospective and retroactive provisions should mirror each other and apply to the same set of individuals. If a person could no longer be convicted of the offense, that person should be eligible for relief.

We respectfully urge courts and other parties implementing the retroactive relief provision to consider interpreting the language consistent with our intent. We intend to pursue legislation early in the 2024 legislative session to correct this provision.

Sincerely,

A handwritten signature in black ink, appearing to be 'Ron Latz'.

Chair Senator Ron Latz

A handwritten signature in black ink, appearing to be 'Kelly Moller'.

Chair Representative Kelly Moller

A handwritten signature in black ink, appearing to be 'Jamie Becker-Finn'.

Chair Representative Jamie Becker-Finn

A handwritten signature in black ink, appearing to be 'Clare Oumou Verbeten'.

Senator Clare Oumou Verbeten

A handwritten signature in black ink, appearing to be 'Cedrick Frazier'.

Representative Cedrick Frazier