

# Expanding Access to Justice Post-Conviction Relief (PCR)

H.F. 833

Everyone who has been wronged by the criminal justice system should have the opportunity to seek justice. The criminal justice system's integrity rests on people's ability to correct any mistakes that have been made. Today, Minnesotans are facing consequences for criminal convictions that have a legal defect, such as ineffective assistance of counsel. The story below highlights this problem:

## The Story of Mr. Tran: The Dream of Re-gaining Permanent Residency



*Mr. Tran, a longtime Minnesota resident, came to the U.S. as a refugee under the Vietnam humanitarian operations program in the early 1990s and was raised by a single mother.*



*His life took a turn when he was 18 years old and charged with a drug felony, then surprisingly ordered deportable to Vietnam. Mr. Tran has lived with the anxiety of never knowing what's next for himself ever since. For nearly 20 years he has checked in with ICE every year, but nothing has changed and he continues to live his life. "I have gotten my life together. I went to college and graduated with a bachelor's degree. I now work in the health field, which provides good benefits for my wife and two kids," said Mr. Tran. "My family and I have a good life here in the United States. I want to one day show this to a judge and prosecutor, and say, "This was a one time mistake I made and I have paid more than the intended punishment that was given to me."*



*The dream of re-gaining permanent residency comes and goes, but the nightmare of getting deported to Vietnam has gotten more real." When Mr. Tran was convicted in 2001, he had made arrangements with his private attorney to go to a six-month boot camp program different from what actually occurred, as a part of his plea bargain. "Unfortunately, when I went into the department of corrections, I was told that boot camp was not available for legal permanent residents," said*

*Mr. Tran. "I didn't know that while I was in court. Then suddenly, I got papers from the immigration court and I was ordered to be deported." Because Mr. Tran did not understand his legal options during his sentencing and because of the length of his punishment, Mr. Tran alongside others has been advocating for post-conviction relief to provide a legal pathway for him to challenge his deportation order.*

## Minnesota's criminal justice system

Minnesota's criminal justice system already has a way to fix or revisit past convictions that were obtained improperly. However, today's post-conviction relief tool requires a claim to be brought within two years of the conviction. This is one of the strictest time-limits in the region. Some states do not even have a time-limit. Moreover, the time limit does not recognize that the consequences of a conviction may not become apparent until years or decades later.

This is especially true in the ever-shifting world of immigration. The retroactive nature of many of our federal laws has now triggered people with old criminal convictions and they are now facing deportation several years after they were convicted. Without access to post-conviction relief, ICE could deport Minnesotans who were **NOT** told that their conviction could lead to immigration consequences.

### Our Legislative Proposal

Our proposal expands access to post-conviction relief by adding an immigration-related exception to the existing list under the two-year time limit. With this proposal, if someone with an old conviction were facing new deportation, they would have the opportunity to go to court and see if their conviction was fair and just. The decision of whether to grant relief is ultimately made by a judge. If a judge finds a legal defect in the conviction, they would be able to get relief from any ongoing consequences of the conviction, including deportation.

Today’s criminal justice system reduces valued members of our communities to one label: criminal. This label comes along with collateral consequences ranging from restricted access to housing, jobs, loans to detention and subsequent deportation. These consequences are especially unjust when the underlying conviction was not reached in a just manner.

While Minnesota law allows some individuals to seek post-conviction relief, for too many this path towards justice is cut off. **Support expanded access to justice through the post-conviction relief bill.**

## HOW “POST CONVICTION RELIEF” WORKS

Context: Lee is a Green Card holder who came to the USA in 1982, as a refugee. Their story shows how H.F. 833 would address an unfair gap in the current PCR system.



<p><b>WITHOUT PCR</b> There is a 2 year time limit for individuals to challenge faulty elements of a conviction. Because Lee’s conviction falls outside of that, they cannot apply for relief.</p>	<p><b>WITH PCR</b> There is no time limit to challenge faulty or illegal elements of a police investigation or criminal trial. If Lee wins their Post Conviction relief under H.F. 833, it could help in their removal proceedings.</p> <p>Without the faulty conviction, Lee is eligible for relief from deportation and can apply to stay in the USA. Although they may not win, they would have more options now than they did before.</p>
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## **Endorsement from Community Organization**

- African Career Education & Resources, Inc
- American Civil Liberties Union - Minnesota
- Asian American Organizing Project
- Black Immigrant Collective
- Coalition of Asian American Leaders (CAAL)
- Decriminalizing Communities Coalition
- Filipinx for Immigrant Rights and Racial Justice
- Hmong American Partnership
- Hmong National Development
- Immigrant Law Center of MN
- Interfaith Coalition on Immigration in MN (ICOM)
- Japanese American Citizens League, Twin Cities
- Jewish Community Action
- Karen Organization of MN
- Lao Assistance Center
- Legal Rights Center
- ManForward
- Minnesota Immigrant Movement
- Minnesota National Lawyers Guild
- NavigateMN/UnidosMN
- ReleaseMN8
- TakeAction-MN
- The Advocates for Human Rights
- The SEAD Project
- Transforming Generations
- Vietnamese Social Services
- Voices for Racial Justice
- Women's March - MN

## **Unions/Labor**

- Asian Pacific American Labor Alliance-MN
- SEIU Asian Pacific Islander Caucus
- SEIU Healthcare Minnesota

## **Government**

- City of Minneapolis
- City of Saint Paul
- Council on Latino Affairs
- Hennepin County Attorney's Office
- Olmstead County Attorney's Office
- Ramsey County Attorney's Office

## **For More Information**

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