

**Subject** Limiting liability for felony murder and permitting resentencing

**Authors** Pinto and others

**Analyst** Ben Johnson (ben.johnson@house.mn)

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## Overview

Under current Minnesota law, a person who causes the death of another while committing a felony can be sentenced to a more serious level of murder even if the person's actions were not premeditated or the person did not intend to cause the death of the other person. This is commonly referred to as "felony murder." An accomplice may also be found guilty of the murder, regardless of whether that accomplice intended to cause a death. This liability for the crimes of another is often referred to as "aiding and abetting."

The bill does not change the liability of a person who actually causes the death of another while committing a felony.

This bill limits the conditions under which a person can be convicted of aiding and abetting two types of felony murder. The limits apply to first-degree murder under section 609.185, paragraph (a), clause (3) (intentionally causing the death of another while committing burglary, aggravated robbery, kidnapping, arson in the first or second degree, a drive-by shooting, tampering with a witness in the first degree, escape from custody, or any felony violation of chapter 152 involving the unlawful sale of a controlled substance) and second-degree murder under section 609.19, subdivision 2, clause (1) (causing the death of another without the intent to cause a death and while committing a felony offense).

Under the bill, a person could only be convicted of aiding and abetting the relevant provision of first-degree murder if the person intentionally aided and abetted the person who caused the death with the intent to cause a death. A person could only be convicted of aiding and abetting the relevant provision of second-degree murder if the person was a major participant in the underlying felony and acted with extreme indifference to human life.

The bill further establishes a procedure for individuals currently serving sentences for the relevant provisions of first- or second-degree murder to petition to have those convictions vacated. The individual must file a preliminary application

showing a reasonable probability that the person is entitled to relief. If the person makes that showing, then the person can file a petition to have the conviction vacated. If the petition is granted, the court must resentence the person on any remaining charges or on the felony that served as the basis for the “felony murder” conviction.

## Summary

Section	Description
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1	<b>Exception.</b>
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Establishes a limitation on liability for certain murders committed by another. The limitation applies to murder in the first degree under section 609.185, paragraph (a), clause (3) and provides that a person is only liable for a murder committed by another if the person intentionally aided and abetted the person who caused the death and did so with the intent to cause the death of a human being. The limitation also applies to murder in the second degree under section 609.19, subdivision 2, clause (1) and provides that a person is only liable for a murder committed by another if the person was a major participant in the underlying felony and acted with extreme indifference to human life.

2	<b>Liability for murder committed by another; retroactive application.</b>
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**Subd. 1. Purpose.** Provides that a person convicted of murder in the first degree under section 609.185, paragraph (a), clause (3) or murder in the second degree under section 609.19, subdivision 2, clause (1) may petition to have the conviction vacated under this section.

**Subd. 2. Notification.** Directs the Department of Corrections to notify individuals who might be eligible to have a conviction vacated of the right to file a preliminary application in Ramsey County District Court.

**Subd. 3. Preliminary application.** Requires individuals seeking to have a conviction vacated to file a preliminary application in Ramsey County District Court. Establishes that the application must include the applicant’s name and date of birth, the relevant case number, a statement as to whether the person entered a plea of guilty or was convicted at a trial, a statement as to whether the person filed an appeal or petition for postconviction relief, and a brief statement explaining why the person is entitled to relief. Permits an applicant to provide additional information about any other person involved in the underlying offense. Permits the judicial branch to establish a standardized form. Requires preliminary applications to be filed by October 1, 2023, and provides that no fee will be charged for the application.

**Section**   **Description**

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**Subd. 3. Review of preliminary application.** Directs the Ramsey County District Court to assign preliminary applications to a judge and permits the appointment of a special master and additional staff as needed to review the applications. Requires the reviewing judge to determine whether there is a reasonable probability that the applicant is entitled to relief based on the preliminary application and any other materials contained in judicial records that the judge chooses to review. Permits a judge to summarily deny an application that clearly does not meet the requirements of the section or for an applicant who previously had an application rejected. Directs the reviewing judge to send notice to the applicant and the applicant's attorney, if any, if the judge denies the application, and to send notice to those individuals and the relevant prosecutor if the application is approved. Directs the court to send notice to the Office of the Public Defender if the judge approves the application and the applicant does not have an attorney.

**Subd. 5. Petition for relief; hearing.** Directs a person whose application was approved to file a petition for relief within 60 days of receiving notice that the application was approved and provides that the petition and any subsequent filings are without any costs or fees. Directs a county attorney to respond to the petition within 30 days and provides that the response may indicate an intent to support the petition or include a statement explaining why the petitioner is not entitled to relief. Provides that the response and any subsequent filings are without cost to the prosecutor. Directs the court to either issue an order dismissing the charge and scheduling the matter for resentencing if the prosecutor supports the petition, deny the petition if additional information demonstrates that there is not a reasonable probability that the applicant is entitled to relief, or schedule the matter for a hearing. Provides that the hearing shall be conducted in a matter consistent with a hearing on a petition for postconviction relief.

**Subd. 6. Determination; order; resentencing.** Establishes the requirements for relief under this section. Permits a court to issue an order denying or granting relief. Requires the court to resentence the petitioner if the court grants relief and requires that resentencing must be held at a time that gives a victim an opportunity to be present or submit a statement. Prohibits imposing a greater sentence than the sentence that was vacated and requires that the person receive credit for any time served in custody on the sentence that was vacated. Provides that relief granted shall not be treated as an exoneration for the purposes of the Incarceration and Exoneration Remedies Act.



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