

SENATE
STATE OF MINNESOTA
NINETY-FOURTH SESSION

S.F. No. 206

(SENATE AUTHORS: OUMOU VERBETEN)		
DATE	D-PG	OFFICIAL STATUS
01/16/2025	92	Introduction and first reading
		Referred to Judiciary and Public Safety
03/24/2025	999a	Comm report: To pass as amended and re-refer to State and Local Government

1.1

A bill for an act

1.2

relating to public safety; modifying certain criminal felony murder and aiding and

1.3

abetting murder provisions; authorizing retroactive relief for certain aiding and

1.4

abetting murder convictions; reviving task force on aiding and abetting felony

1.5

murder; requiring a report; amending Minnesota Statutes 2024, sections 609.05,

1.6

subdivision 2a; 609.185; 609.19, subdivisions 1, 2, by adding a subdivision.

1.7

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.8

Section 1. Minnesota Statutes 2024, section 609.05, subdivision 2a, is amended to read:

1.9

Subd. 2a. **Exception.** (a) A person may not be held criminally liable for a violation of

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section 609.185, paragraph (a), clause (3), for a death caused by another unless the person

1.11

intentionally aided, advised, hired, counseled, or conspired with or otherwise procured the

1.12

other with the intent to cause the death of a human being.

1.13

(b) A person may not be held criminally liable for a violation of section 609.185,

1.14

paragraph (a), clause (1), for a death of a human being caused by another unless the person

1.15

intentionally aided, advised, hired, counseled, or conspired with or otherwise procured the

1.16

other with premeditation and with intent to cause the death of a human being.

1.17

(c) A person may not be held criminally liable for a violation of section 609.19,

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subdivision 1, for a death of a human being caused by another unless the person intentionally

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aided, advised, hired, counseled, or conspired with or otherwise procured the other with the

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intent to cause the death of a human being.

1.21

~~(b)~~ (d) A person may not be held criminally liable for a violation of section 609.19,

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subdivision 2, clause (1), for a death caused by another unless the person was a major

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participant in the underlying felony and acted with extreme indifference to human life.

2.1 ~~(e)~~ (e) As used in this subdivision, "major participant" means a person who:

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

2.5 (2) caused substantial bodily harm to another during the commission of the underlying
2.6 felony;

2.7 (3) coerced or hired a participant to undertake actions in furtherance of the underlying
2.8 felony that proximately caused the death, and where it was reasonably foreseeable that such
2.9 actions would cause death or great bodily harm; or

2.10 (4) impeded another person from preventing the death either by physical action or by
2.11 threat of physical action where it was reasonably foreseeable that death or great bodily harm
2.12 would result.

2.13 **EFFECTIVE DATE.** This section is effective August 1, 2025, and applies to crimes
2.14 committed on or after that date.

2.15 Sec. 2. Minnesota Statutes 2024, section 609.185, is amended to read:

2.16 **609.185 MURDER IN THE FIRST DEGREE.**

2.17 (a) Whoever does any of the following is guilty of murder in the first degree and shall
2.18 be sentenced to imprisonment for life:

2.19 (1) causes the death of a human being with premeditation and with intent to effect the
2.20 death of the person or of another;

2.21 (2) causes the death of a human being while committing or attempting to commit criminal
2.22 sexual conduct in the first or second degree with force or violence, either upon or affecting
2.23 the person or another;

2.24 (3) causes the death of a human being with intent to effect the death of the person or
2.25 another, while committing or attempting to commit a felony-level violation of any of the
2.26 following offenses: burglary, aggravated robbery, carjacking in the first or second degree,
2.27 kidnapping, arson in the first or second degree, a drive-by shooting, tampering with a witness
2.28 in the first degree, escape from custody, or ~~any felony~~ a felony-level violation of chapter
2.29 152 involving the unlawful sale of a controlled substance;

2.30 (4) causes the death of a peace officer, prosecuting attorney, judge, or a guard employed
2.31 at a Minnesota state or local correctional facility, with intent to effect the death of that person
2.32 or another, while the person is engaged in the performance of official duties;

(5) causes the death of a minor while committing child abuse, when the perpetrator has engaged in a past pattern of child abuse upon a child and the death occurs under circumstances manifesting an extreme indifference to human life;

(6) causes the death of a human being while committing domestic abuse, when the perpetrator has engaged in a past pattern of domestic abuse upon the victim or upon another family or household member and the death occurs under circumstances manifesting an extreme indifference to human life; or

(7) causes the death of a human being while committing, conspiring to commit, or attempting to commit a felony crime to further terrorism and the death occurs under circumstances manifesting an extreme indifference to human life.

(b) For the purposes of paragraph (a), clause (4), "prosecuting attorney" has the meaning given in section 609.221, subdivision 6, clause (4).

(c) For the purposes of paragraph (a), clause (4), "judge" has the meaning given in section 609.221, subdivision 6, clause (5).

(d) For purposes of paragraph (a), clause (5), "child abuse" means an act committed against a minor victim that constitutes a violation of the following laws of this state or any similar laws of the United States or any other state: section 609.221; 609.222; 609.223; 609.224; 609.2242; 609.342; 609.343; 609.344; 609.345; 609.377; 609.378; or 609.713.

(e) For purposes of paragraph (a), clause (6), "domestic abuse" means an act that:

(1) constitutes a violation of section 609.221, 609.222, 609.223, 609.224, 609.2242, 609.342, 609.343, 609.344, 609.345, 609.713, or any similar laws of the United States or any other state; and

(2) is committed against the victim who is a family or household member as defined in section 518B.01, subdivision 2, paragraph (b).

(f) For purposes of paragraph (a), clause (7), "further terrorism" has the meaning given in section 609.714, subdivision 1.

EFFECTIVE DATE. This section is effective August 1, 2025, and applies to crimes committed on or after that date.

Sec. 3. Minnesota Statutes 2024, section 609.19, subdivision 1, is amended to read:

Subdivision 1. **Intentional murder; drive-by shootings.** ~~Whoever does either of the following~~ causes the death of a human being with intent to effect the death of that person

or another, but without premeditation, is guilty of murder in the second degree and may be sentenced to imprisonment for not more than 40 years;.

~~(1) causes the death of a human being with intent to effect the death of that person or another, but without premeditation; or~~

~~(2) causes the death of a human being while committing or attempting to commit a drive-by shooting in violation of section 609.66, subdivision 1e, under circumstances other than those described in section 609.185, paragraph (a), clause (3).~~

EFFECTIVE DATE. This section is effective August 1, 2025, and applies to crimes committed on or after that date.

Sec. 4. Minnesota Statutes 2024, section 609.19, subdivision 2, is amended to read:

Subd. 2. **Unintentional murders.** Whoever does either of the following is guilty of unintentional murder in the second degree and may be sentenced to imprisonment for not more than 40 years:

(1) causes the death of a human being, without intent to effect the death of any person, while committing or attempting to commit ~~a felony offense other than criminal sexual conduct in the first or second degree with force or violence or a drive-by shooting~~ a felony-level violation of any of the following offenses: burglary, aggravated robbery, carjacking in the first or second degree, kidnapping, arson in the first or second degree, drive-by shooting, tampering with a witness in the first degree, escape from custody, malicious punishment of a child, domestic assault, domestic assault by strangulation, a crime to further terrorism, or a felony-level violation of chapter 152 involving the unlawful sale of a controlled substance; or

(2) causes the death of a human being without intent to effect the death of any person, while intentionally inflicting or attempting to inflict bodily harm upon the victim, when the perpetrator is restrained under an order for protection and the victim is a person designated to receive protection under the order. As used in this clause, "order for protection" includes an order for protection issued under chapter 518B; a harassment restraining order issued under section 609.748; a court order setting conditions of pretrial release or conditions of a criminal sentence or juvenile court disposition; a restraining order issued in a marriage dissolution action; and any order issued by a court of another state or of the United States that is similar to any of these orders.

EFFECTIVE DATE. This section is effective August 1, 2025, and applies to crimes committed on or after that date.

Sec. 5. Minnesota Statutes 2024, section 609.19, is amended by adding a subdivision to read:

Subd. 3. **Exception.** A person shall not be held liable for a violation of subdivision 2, clause (1), unless their acts present a special danger to human life based on the circumstances under which the predicate felony was committed.

EFFECTIVE DATE. This section is effective August 1, 2025, and applies to crimes committed on or after that date.

Sec. 6. **TASK FORCE ON AIDING AND ABETTING FELONY MURDER.**

(a) Laws 2021, First Special Session chapter 11, article 2, section 53, subdivisions 2 to 5, are revived and reenacted on the effective date of this section to expand the focus of the task force's duties and work on felony murder, aiding and abetting liability generally, and other implicated issues pursuant to recommendation number six in the February 14, 2024, task force on aiding and abetting felony murder report to the Minnesota legislature.

(b) On or before February 1, 2027, the task force shall submit a report to the chairs and ranking minority members of the legislative committees and divisions with jurisdiction over crime and sentencing on the findings and recommendations of the task force.

(c) The task force expires February 2, 2027, or the day after submitting its report under paragraph (b), whichever is earlier.

EFFECTIVE DATE. This section is effective August 1, 2025.

Sec. 7. **LIABILITY FOR MURDER COMMITTED BY ANOTHER; RETROACTIVE APPLICATION.**

Subdivision 1. **Purpose.** Any person convicted of a violation of Minnesota Statutes, section 609.185, paragraph (a), clause (1), under the theory of liability for crimes of another and who is in the custody of the commissioner of corrections or under court supervision is entitled to petition to have the person's conviction vacated pursuant to this section.

Subd. 2. **Notification.** (a) By September 1, 2026, the commissioner of corrections shall notify individuals convicted of a violation of Minnesota Statutes, section 609.185, paragraph (a), clause (1), of the right to file a preliminary application for relief if the person was convicted of a violation of Minnesota Statutes, section 609.185, paragraph (a), clause (1), and the person:

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

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

(b) The notice shall include the address of the court administration of the judicial district of conviction.

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

Subd. 3. **Preliminary application.** (a) An applicant shall submit a preliminary application to the court administration of the judicial district in which the conviction took place. The preliminary application must contain:

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

(2) the applicant's date of birth;

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

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

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

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

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

(b) The preliminary application may contain:

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

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

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

(d) Any person seeking relief under this section must submit a preliminary application no later than October 1, 2027. Submission is complete upon mailing.

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

7.3 Subd. 4. **Review of preliminary application.** (a) Upon receipt of a preliminary
7.4 application, the chief judge of the judicial district in which the conviction took place shall
7.5 promptly assign the matter to a judge in that district.

7.6 (b) Within 90 days of receiving the preliminary application, the reviewing judge shall
7.7 determine whether, in the discretion of that judge, there is a reasonable probability that the
7.8 application is entitled to relief under this section.

7.9 (c) In making the determination under paragraph (b), the reviewing judge shall consider
7.10 the preliminary application and any materials submitted with the preliminary application
7.11 and may consider relevant records in the possession of the judicial branch.

7.12 (d) The court may summarily deny an application when:

7.13 (1) the application does not contain the information required under subdivision 3,
7.14 paragraph (a);

7.15 (2) the applicant is not in the custody of the commissioner of corrections or under court
7.16 supervision;

7.17 (3) the applicant was not convicted of a violation of Minnesota Statutes, section 609.185,
7.18 paragraph (a), clause (1), for crimes committed before August 1, 2025; or

7.19 (4) the issues raised in the application are not relevant to the relief available under this
7.20 section or have previously been decided by the court of appeals or the supreme court in the
7.21 same case.

7.22 (e) The court may also summarily deny an application if the applicant has filed a second
7.23 or successive preliminary application, any prior application was denied for a reason other
7.24 than that it did not contain the information required under subdivision 3, paragraph (a), and:

7.25 (1) the reviewing judge previously determined that there was a reasonable probability
7.26 that the applicant was entitled to relief, but a court determined that the petitioner did not
7.27 qualify for relief under subdivision 6;

7.28 (2) a previous application was submitted by an attorney representing the applicant; or

7.29 (3) the reviewing judge previously determined that there was not a reasonable probability
7.30 that the applicant is entitled to relief, the second or successive preliminary application does
7.31 not contain any additional information described in subdivision 3, paragraph (b), and the

8.1 second or successive preliminary application was submitted by someone other than an
8.2 attorney representing the applicant.

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

8.8 (g) If the reviewing judge determines that there is not a reasonable probability that the
8.9 applicant is entitled to relief, the judge shall send notice to the applicant and the applicant's
8.10 attorney, if any. The notice must contain a brief statement explaining the reasons the
8.11 reviewing judge concluded that there is not a reasonable probability that the applicant is
8.12 entitled to relief.

8.13 Subd. 5. **Petition for relief; hearing.** (a) Unless extended for good cause, within 60
8.14 days of filing of the notice sent pursuant to subdivision 4, paragraph (f), the individual
8.15 seeking relief shall file and serve a petition to vacate the conviction. The petition must be
8.16 filed in the district court of the judicial district in the county where the conviction took place
8.17 and must contain the information identified in subdivision 3, paragraph (a), and a statement
8.18 of why the petitioner is entitled to relief. The petition may contain any other relevant
8.19 information, including police reports, trial transcripts, and plea transcripts involving the
8.20 petitioner or any other person investigated for, charged with, or convicted of a crime arising
8.21 out of the same set of circumstances for which the petitioner was convicted. The filing of
8.22 the petition and any document subsequent thereto and all proceedings thereon shall be
8.23 without costs or any fees charged to the petitioner.

8.24 (b) Upon filing of the petition, the prosecutor shall make a good faith and reasonable
8.25 effort to notify any person determined to be a victim of the underlying offense that a petition
8.26 has been filed.

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

9.1 (d) The petitioner may file a reply to the response filed by the county attorney within
9.2 15 days after the response is filed, unless extended for good cause.

9.3 (e) Within 30 days of the filing of the reply from the petition or, if no reply is filed,
9.4 within 30 days of the filing of the response from the county attorney, the court shall:

9.5 (1) issue an order and schedule the matter for sentencing or resentencing pursuant to
9.6 subdivision 6 if the county attorney indicates an intent to support the petition;

9.7 (2) issue an order denying the petition if additional information or submissions establish
9.8 that there is not a reasonable probability that the applicant is entitled to relief under this
9.9 section and include a memorandum identifying the additional information or submissions
9.10 and explaining the reasons why the court concluded that there is not a reasonable probability
9.11 that the applicant is entitled to relief; or

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

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

9.19 Subd. 6. **Determination; order; resentencing.** (a) A petitioner who was convicted of
9.20 a violation of Minnesota Statutes, section 609.185, paragraph (a), clause (1), is entitled to
9.21 relief if the petitioner shows by a preponderance of the evidence that the petitioner:

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

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

9.25 (b) If the court determines that the petitioner does not qualify for relief, the court shall
9.26 issue an order denying the petition. If the court determines that the petitioner is entitled to
9.27 relief, the court shall issue an order vacating the conviction for a violation of Minnesota
9.28 Statutes, section 609.185, paragraph (a), clause (1), and:

9.29 (1) resentence the petitioner for a remaining offense for which the petitioner was
9.30 convicted; or

9.31 (2) enter a conviction and impose a sentence for any lesser included offenses as described
9.32 in Minnesota Statutes, section 631.14.

10.1 (c) If the court intends to enter a conviction and impose a sentence for a lesser included
10.2 offense, the court must hold a hearing to determine the appropriate offense.

10.3 (d) If, pursuant to paragraph (b), the court either resentsences a petitioner or imposes a
10.4 sentence, the court shall also resentence the petitioner for any other offense if the sentence
10.5 was announced by a district court of the same county, the sentence was either ordered to
10.6 be served consecutively to the vacated conviction or the criminal history calculation for
10.7 that sentence included the vacated sentence, and the changes made pursuant to paragraph
10.8 (b) would have resulted in a different criminal history score being used at the time of
10.9 sentencing.

10.10 (e) The court shall state in writing or on the record the reasons for its decision on the
10.11 petition.

10.12 (f) If the court intends to resentence a petitioner or impose a sentence on a petitioner,
10.13 the court must hold the hearing at a time that allows any victim an opportunity to submit a
10.14 statement consistent with Minnesota Statutes, section 611A.038. The prosecutor shall make
10.15 a good faith and reasonable effort to notify any person determined to be a victim of the
10.16 hearing and the right to submit or make a statement. A sentence imposed under this
10.17 subdivision shall not increase the petitioner's total period of confinement or, if the petitioner
10.18 was serving a stayed sentence, increase the period of supervision. The court may increase
10.19 the period of confinement for a sentence that was ordered to be served consecutively to the
10.20 vacated conviction based on a change in the appropriate criminal history score provided the
10.21 court does not increase the petitioner's total period of confinement. A person resented
10.22 under this paragraph is entitled to credit for time served in connection with the vacated
10.23 offense.

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

10.26 (h) If the court enters a conviction under this subdivision, the court shall ensure that the
10.27 date of the conviction being entered is the same as that of the original conviction.

10.28 **EFFECTIVE DATE.** This section is effective August 1, 2025.