

SENATE
STATE OF MINNESOTA
NINETY-SECOND SESSION

S.F. No. 1061

(SENATE AUTHORS: CHAMBERLAIN)

DATE
02/17/2021

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OFFICIAL STATUS
Introduction and first reading
Referred to Judiciary and Public Safety Finance and Policy

1.1 A bill for an act
 1.2 relating to public safety; limiting liability for certain crimes committed by another;
 1.3 amending Minnesota Statutes 2020, section 609.05, subdivisions 1, 2.

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

1.5 Section 1. Minnesota Statutes 2020, section 609.05, subdivision 1, is amended to read:

1.6 Subdivision 1. **Aiding, abetting; liability.** (a) A person is criminally liable for a crime
 1.7 other than a violation of section 609.185, 609.19, 609.195, or 609.20 committed by another
 1.8 if the person intentionally aids, advises, hires, counsels, or conspires with or otherwise
 1.9 procures the other to commit the crime.

1.10 (b) A person is criminally liable for a violation of section 609.185, 609.19, 609.195, or
 1.11 609.20 committed by another if:

1.12 (1) the person intentionally aids, advises, hires, counsels, or conspires with or otherwise
 1.13 procures the other to commit the crime; and

1.14 (2) the person does so with intent to effect the death of a human being.

1.15 **EFFECTIVE DATE.** This section is effective August 1, 2021, and applies to violations
 1.16 committed on or after that date, and retroactively to violations committed before that date.

1.17 Sec. 2. Minnesota Statutes 2020, section 609.05, subdivision 2, is amended to read:

1.18 Subd. 2. **Expansive liability.** A person liable under subdivision 1 is also liable for any
 1.19 other crime, other than a violation of section 609.185, 609.19, 609.195, or 609.20, committed
 1.20 in pursuance of the intended crime if reasonably foreseeable by the person as a probable
 1.21 consequence of committing or attempting to commit the crime intended.

2.1 Sec. 3. **LIABILITY FOR CRIMES OF ANOTHER; RETROACTIVE**
2.2 **APPLICATION.**

2.3 (a) A person convicted of a violation of Minnesota Statutes, section 609.185, 609.19,
2.4 609.195, or 609.20, may file a petition to have the person's conviction vacated when all of
2.5 the following apply:

2.6 (1) the person was found liable for a crime committed by another; and

2.7 (2) the person did not intentionally aid, advise, hire, counsel, or conspire with or otherwise
2.8 procure the other to commit the crime with intent to effect the death of a human being.

2.9 (b) The person shall file a petition under this section with the district court that sentenced
2.10 the person. Any filing fee for this petition is waived. The petition shall be signed under oath
2.11 by the petitioner and state the following:

2.12 (1) the petitioner's full name;

2.13 (2) the petitioner's date of birth;

2.14 (3) the district court case number and year of the petitioner's conviction;

2.15 (4) a declaration that the petitioner is eligible for relief; and

2.16 (5) whether the petitioner requests appointment of counsel.

2.17 (c) The prosecutorial office that had jurisdiction over the offense may file a petition on
2.18 behalf of a person described in paragraph (a). Any filing fee for a petition filed by the
2.19 prosecutorial office is waived. The prosecutorial office must provide notice to the person
2.20 on whose behalf the petition is filed.

2.21 (d) Within ten days of receipt of the petition, the court shall notify the prosecutorial
2.22 office that had jurisdiction over the offense and provide a copy of the petition to that office.

2.23 (e) Within 30 days of the receipt of the petition, the court shall review the petition and
2.24 determine whether the petitioner has made a prima facie showing that the petitioner is
2.25 entitled to relief. If the court determines that the petitioner did not make a prima facie
2.26 showing, the court may either request that the petitioner supplement the petition or enter
2.27 an order denying the petition. If the court determines that the petitioner has made a prima
2.28 facie showing, the court shall set the matter for a hearing.

2.29 (f) Unless the parties agree to a different time, the hearing shall be scheduled within 90
2.30 days of the court's determination that a petitioner has made a prima facie showing. The
2.31 parties may submit written arguments to the court prior to the date of the hearing and may
2.32 make oral arguments before the court at the hearing. The petitioner must be present at the

hearing, unless excused under Minnesota Rules of Criminal Procedure, rule 26.03, subdivision 1, clause (3). The prosecutor and the petitioner may rely on the record of conviction or offer new or additional evidence at the hearing. The court may cancel the hearing if the parties stipulate that the petitioner is eligible to have the conviction vacated.

(g) If the court determines that the petitioner is entitled to relief, the court shall vacate the conviction for a violation of Minnesota Statutes, section 609.185, 609.19, 609.195, or 609.20 and, if applicable, 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.

A sentence imposed under this paragraph must not increase the petitioner's period of confinement or, if the petitioner was serving a stayed sentence, increase the period of supervision.

(h) A person who is resentenced under paragraph (g) is entitled to credit for time served in connection with the vacated offense.

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

EFFECTIVE DATE. This section is effective August 1, 2021.