



# Legislative Overview: Aiding & Abetting Felony Murder Task Force

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# Establishment and Purpose

- To collect and analyze data on the
  - charging,
  - convicting, and
  - sentencing of people for aiding and abetting felony murder
- Assess whether current laws and practices promote public safety and equity in sentencing; and
- Make recommendations to the legislature

# Membership

1. the commissioner of corrections or a designee;
2. the executive director of the Minnesota Sentencing Guidelines Commission or a designee;
3. the state public defender or a designee;
4. the statewide coordinator of the Violent Crime Coordinating Council or a designee;
5. one defense attorney, appointed by the Minnesota Association of Criminal Defense Lawyers;
6. two county attorneys, one from a county within the seven-county metropolitan area and the other from outside the seven-county metropolitan area, appointed by the Minnesota County Attorneys Association;
7. a peace officer familiar with homicide investigations, preferably felony murder, appointed jointly by the Minnesota Sheriffs' Association, and the Minnesota Chiefs of Police Association;
8. one member representing a victims' rights organization, appointed by the senate majority leader;
9. one member of a statewide civil rights organization, appointed by the speaker of the house of representatives;
10. one impacted person who is directly related to a person who has been convicted of felony murder, appointed by the governor; and
11. one person with expertise regarding the laws and practices of other states relating to aiding and abetting felony murder, appointed by the governor.

# Officers and Meetings

- Shall elect chair and vice-chair
- May elect other officers as necessary
- DOC to provide meeting space and administrative assistance
- Meet at least monthly or upon call of the chair
- Meetings are subject to Minn. Stat. § 13D – Open Meeting Law

- Task force *shall* request the cooperation and assistance of
  - local law enforcement agencies,
  - the Minnesota Sentencing Guidelines Commission,
  - the judicial branch,
  - the Bureau of Criminal Apprehension,
  - county attorneys, and
  - Tribal governments
- Task force *may* request the cooperation of academics and others with experience and expertise in researching the impact of laws criminalizing aiding and abetting felony murder



# Duties

1. collect and analyze data on charges, convictions, and sentences for aiding and abetting felony murder;
2. collect and analyze data on sentences for aiding and abetting felony murder in which a person received a mitigated durational departure because the person played a minor or passive role in the crime or participated under circumstances of coercion or duress;
3. collect and analyze data on charges, convictions, and sentences for codefendants of people sentenced for aiding and abetting felony murder;
4. review relevant state statutes and state and federal court decisions;
5. receive input from individuals who were convicted of aiding and abetting felony murder;

## Duties cont.

6. receive input from family members of individuals who were victims of felony murder;
  7. analyze the benefits and unintended consequences of Minnesota Statutes and practices related to the charging, convicting, and sentencing of people for aiding and abetting felony murder including but not limited to an analysis of whether current statutes and practice:
    - i. promote public safety; and
    - ii. properly punish people for their role in an offense; and
  8. make recommendations for legislative action, if any, on laws affecting:
    - i. the collection and reporting of data; and
    - ii. the charging, convicting, and sentencing of people for aiding and abetting felony murder.
- \*At its discretion, the task force may examine, as necessary, other related issues consistent with this section.*

# Themes

1. collect and analyze data on charges, convictions, and sentences for aiding and abetting felony murder;
  2. collect and analyze data on sentences for aiding and abetting felony murder in which a person received a mitigated durational departure because the person played a minor or passive role in the crime or participated under circumstances of coercion or duress;
  3. collect and analyze data on charges, convictions, and sentences for codefendants of people sentenced for aiding and abetting felony murder;
  4. review relevant state statutes and state and federal court decisions;
  5. receive input from individuals who were convicted of aiding and abetting felony murder;
  6. receive input from family members of individuals who were victims of felony murder;
  7. analyze the benefits and unintended consequences of Minnesota Statutes and practices related to the charging, convicting, and sentencing of people for aiding and abetting felony murder including but not limited to an analysis of whether current statutes and practice:
    1. promote public safety; and
    2. properly punish people for their role in an offense; and
  8. make recommendations for legislative action, if any, on laws affecting:
    1. the collection and reporting of data; and
    2. the charging, convicting, and sentencing of people for aiding and abetting felony murder.
- \*At its discretion, the task force may examine, as necessary, other related issues consistent with this section.*



# Reporting & Expiration

- Report due on or before January 15, 2022
  - Findings and recommendations
- Task force expires the day after submitting its report



# Overview of Felony Murder

# Legal Principles

- Intersection of felony murder and aiding and abetting liability
  - Felony murder is a legal doctrine that allows anyone involved in committing a felony to be charged with murder if a death occurs during the course of the felony, even if it was unintentional or the participant had no role in the killing
  - Aiding and abetting is a principle of holding a person criminally liable for a crime committed by another if the person aids, advises, counsels or conspires to commit the crime

# Minn. Stat. § 609.05 Liability for Crimes of Another

## 2020 Minnesota Statutes

### 609.05 LIABILITY FOR CRIMES OF ANOTHER.

Subdivision 1. **Aiding, abetting; liability.** A person is criminally liable for a crime committed by another if the person intentionally aids, advises, hires, counsels, or conspires with or otherwise procures the other to commit the crime.

Subd. 2. **Expansive liability.** A person liable under subdivision 1 is also liable for any other crime committed in pursuance of the intended crime if reasonably foreseeable by the person as a probable consequence of committing or attempting to commit the crime intended.

Subd. 3. **Abandonment of criminal purpose.** A person who intentionally aids, advises, hires, counsels, or conspires with or otherwise procures another to commit a crime and thereafter abandons that purpose and makes a reasonable effort to prevent the commission of the crime prior to its commission is not liable if the crime is thereafter committed.

Subd. 4. **Circumstances of conviction.** A person liable under this section may be charged with and convicted of the crime although the person who directly committed it has not been convicted, or has been convicted of some other degree of the crime or of some other crime based on the same act, or if the person is a juvenile who has not been found delinquent for the act.

Subd. 5. **Definition.** For purposes of this section, a crime also includes an act committed by a juvenile that would be a crime if committed by an adult.

**History:** [1963 c 753 art 1 s 609.05](#); [1986 c 444](#); [1991 c 279 s 22, 23](#)

# Minn. Stat. § 609.185 Murder in the First Degree (2, 3, 5, 6, 7)

## 2020 Minnesota Statutes

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

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

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

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

(3) causes the death of a human being with intent to effect the death of the person or another, while committing or attempting to commit 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;

(4) causes the death of a peace officer, prosecuting attorney, judge, or a guard employed at a Minnesota state or local correctional facility, with intent to effect the death of that person 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.



# Minn. Stat. § 609.19, subd. 2, clause (1)

## 2020 Minnesota Statutes

### 609.19 MURDER IN THE SECOND DEGREE.

Subdivision 1. **Intentional murder; drive-by shootings.** Whoever does either of the following 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).

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; 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.

**History:** [1963 c 753 art 1 s 609.19](#); [1981 c 227 s 10](#); [1992 c 571 art 4 s 6](#); [1995 c 226 art 2 s 16](#); [1996 c 408 art 4 s 8](#); [1998 c 367 art 2 s 8](#); [2015 c 21 art 1 s 99](#)

# Comparative Law

- **International** – every common law country in the world has abolished felony murder except the United States (*incl. England, Ireland, Scotland, Canada, India*)
- **National** –
  - Abolished – Hawaii, Kentucky, Massachusetts, Michigan, and Ohio
  - Limited its broad application – Arkansas, California, Connecticut, Delaware, Illinois, Maine, New Jersey, New York, North Dakota, Oregon, and Washington
    - *e.g.*, California law (2018) now requires the person to be a “major participant” in the felony and act with “reckless indifference to human life” during the killing – abolished the common law “natural and probable consequence doctrine” – retroactive reform with resentencing process
    - *e.g.*, Illinois law (Feb. 2021) now prohibits its use in cases where a third party, like a police officer or a homeowner, caused the death
  - Reviewing – Colorado, Florida, Maryland, Minnesota, and Pennsylvania

# Thank you!