

Overview HF 901 (Moller) - Prosecutor-Initiated Resentencing Legislation
House Public Safety and Criminal Justice Reform Committee
Thursday, March 4, 2021

HF 901 provides discretionary authority to county attorneys to work with interested parties in reviewing past cases. HF 901 allows this discretion for prosecutors to petition the Court to resentence cases, while at the same time providing safeguards to ensure public safety.

What HF 901 does:

- Gives prosecutors additional discretion to balance public safety, fiscal responsibility, and fairness in our criminal justice system
- Prosecutors are tasked with protecting the public and the interest of justice. This law would support both.
- County Attorney would evaluate whether there are incarcerated people who can clearly demonstrate that they are rehabilitated, and further confinement is no longer in the interest of public safety or the interest of justice.
- A potential candidate would be someone that demonstrates significant rehabilitative progress in prison and that they have paid their debt to society. It must also be evident that the person would not pose a risk to public safety, but instead, show that they would be positive addition to our communities.
- After a careful review of a case, prosecutors would have the opportunity to make a motion to the Court for a resentencing hearing. This would ensure a system of checks and balances by vesting judges with the ultimate decision-making authority in these cases.
- This law would not mandate action by a County Attorney and would be purely discretionary. County Attorneys would not be required to review cases in their jurisdiction.
- This process would require very little court time since the cases would likely be joint motions, uncontested, and carried out through pleadings as opposed to a series of court appearances, motions, oppositions, and lengthy oral arguments.

Prosecutors are ministers of justice, with a duty to ensure people in the legal system are treated justly:

- A prosecutor's job is to hold people who commit crimes accountable and to ensure the consequences are fair, just, and proportionate – at the time of administration and now. It is important for prosecutors to ensure the interest of justice warrants continued incarceration.
- As prosecutors, when new evidence casts doubt on the integrity and fairness of a conviction, it is necessary to reevaluate the sentence. The job of a prosecutor doesn't simply end when someone is convicted. Many County Attorneys across Minnesota and prosecutors nationally have begun Conviction Integrity or Review practices.

Reasons Prosecutors Should Use Discretion to Reevaluate Lengthy Sentences

Address Lengthy Sentences Given to Young Adults and Children

- This law allows County Attorneys to reconsider whether people who were prosecuted as young adults or children still need further confinement.
- Many young adults and children were sentenced to extremely long and harsh sentences – the type of sentences that many County Attorneys no longer seek.
- 2,421 people in Minnesota (31% of the prison population) were 25 years old or younger at the time of offense—deemed “youthful offenders” in many jurisdictions across the nation.
- 234 people in Minnesota (3% of the prison population) who are currently incarcerated were children (under 18 years old) at the time of their offense.
- Prosecutor-initiated resentencing legislation would allow for a way to redress some of these past harms.

Address Public Health and Public Safety in COVID Era

- Allowing County Attorneys to recommend people who can be safely released, can also help create safer prison conditions, especially considering the COVID-19 pandemic.
 - A December 2020 study conducted by the National Commission on COVID-19 and Criminal Justice (NCCCJ) found that the rate of COVID-19 transmission inside jails and prisons is 3.7 times that of the national transmission rate, while the COVID-19 mortality rate inside prisons is double that of the national rate.¹
- In addition, this type of law can help safely release people who are older in age and/or who have a serious medical condition.

Smarter on Crime. Saves Money. Provides Opportunities for Smarter Investments

- Prosecutor-initiated resentencing could create significant cost savings and divert taxpayer dollars away from housing people in prison who are not a threat to public safety.
- Especially in this time of economic crisis, we owe it to Minnesotans to make fiscally responsible decisions. We need laws that keep government accountable and ensure taxpayer dollars are not being wasted.
- Research from the Brennan Center for Justice found that 14% of the US prison population could be released with minimal risk to public safety. They found that for an additional 25% of the US prison population, alternatives to incarceration would produce more effective outcomes than prison time. 77% of the Minnesota prison population has not had any major rule violations during their time served in prison.
- Resentencing cases can create significant cost savings for the state. Looking at drug cases alone, the state will spend \$51.4 million this year to incarcerate the 1,244 people serving sentences for drug offenses. The state will spend \$84.6 million this year to incarcerate the 2,047 people serving time for a non-violent, non-serious, non-sex offense or drug offense.

¹ <https://covid19.counciloncj.org/2020/12/06/impact-report-covid-19-and-prisons/>