

HENNEPIN COUNTY

ATTORNEY'S OFFICE

Mary F. Moriarty
Hennepin County Attorney
C-2000 Government Center
300 South 6th Street
Minneapolis, MN 55487
612-348-6221

01/24/23

Representative Kelly Moller
509 State Office Building
St. Paul, MN 55155

Chair Moller and Members of the Public Safety Committee:

Thank you for giving me the opportunity to express my support for HF 43, which would set the maximum term of incarceration for gross misdemeanors at 364 days.

As a prosecutor, I support passing HF 43 because it will better align state and federal criminal law penalties, it will increase the consistency of application of Minnesota state law, and it will prevent the unwarranted detention and deportation of fellow community members based on contradictory technical definitions in state criminal and federal immigration law.

As many of us know, Minnesota law authorizes a sentence of up to 365 days for gross misdemeanor convictions. On the other hand, federal immigration law classifies *any* conviction with an imposed sentence of 365 days as an "aggravated felony" -- subjecting the defendant to the most serious immigration consequences, prohibiting most forms of relief from removal, and barring readmittance in the future.

This inconsistency allows for serious, but not heinous, criminal transgressions to inadvertently trigger the type of harsh federal immigration enforcement actions that are meant to be reserved for more severe criminal transgressions -- based on the sentence imposed, not the underlying conduct. This statutory inconsistency is contradictory to a basic principle of law --proportionality -- and needs to be changed.

The difference between a 364 and 365 day criminal sentence will have no meaningful impact on public safety. That is why prosecutors, defense attorneys, and judges regularly pursue sentences of 364 days with the express intent of avoiding unintended immigration consequences. But this practice is inconsistent. And, too often, Minnesotans who have committed the same crime and share the same immigration status face vastly different criminal justice outcomes because of a one-day difference in sentencing.

These inconsistencies and harsh outcomes based on technical differences in statutory language undermine confidence in the system. I'm proud to support HF 43 because it provides an easy, humane, and safe fix for this statutory discrepancy.

Sincerely,



Mary F. Moriarty
Hennepin County Attorney