

Minnesota Felony Murder Task Force - HF 1162 (Pinto)

Companion bill: SF 1062 (Chamberlain)

What is Felony Murder? A legal doctrine that allows anyone involved in a felony to be charged with murder if a death occurs during the course of the felony, even if they did not intend to kill anyone.

Facts on Felony Murder

- The felony murder rule has been abolished in every common law country but the U.S., including Canada, England, Ireland, Scotland and India.
- Ohio, Hawaii, Kentucky, Michigan, and Massachusetts no longer apply the felony murder rule.
- Arkansas, California, Connecticut, Delaware, Illinois, Maine, New Jersey, New York, North Dakota, Oregon, and Washington limit the felony murder rule to the actual perpetrators of the homicide.
- Minnesota has one of the broadest felony murder rules in the country.

Task Force Bill on Aiding and Abetting Felony Murder in Minnesota

- Establishes Task Force
- Effective 7/1/21 to 1/15/22 *Report required on or before 1/15/22
- *Membership to Include:* Commissioner of Corrections, Minnesota Sentencing Guidelines Commissioner, Attorney General, State Public Defender, Violent Crime Coordinating Council, Minnesota Association of Criminal Defense Lawyers, Minnesota County Attorney Association, 2 Representatives of Victims Rights Advocacy Groups, Impacted person or family member

Task Force Duties

- Collect & Analyze Data on relevant charges, convictions, sentences (currently, no departments track homicide convictions for murder vs. aiding and abetting murder)
- Review Relevant Statutes and State and Federal Case Law
- Receive input from impacted defendants, their family members and the families of victims
- Analyze benefits and unintended consequences of current laws
- Make Recommendations to MN Legislature by 1/15/22

This Document can be made available in alternative formats upon request

State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-SECOND SESSION

H. F. No. 1162

02/15/2021

Authored by Pinto

The bill was read for the first time and referred to the Committee on Public Safety and Criminal Justice Reform Finance and Policy

1.1 A bill for an act
1.2 relating to public safety; establishing a task force on sentencing for aiding and
1.3 abetting felony murder; requiring a report.

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

1.5 Section 1. TASK FORCE ON SENTENCING FOR AIDING AND ABETTING
1.6 FELONY MURDER.

1.7 Subdivision 1. Definitions. As used in this section, the following terms have the meanings
1.8 given:

1.9 (1) "aiding and abetting" means a person who is criminally liable for a crime committed
1.10 by another because that person intentionally aided, advised, hired, counseled, or conspired
1.11 with or otherwise procured the other to commit the crime; and

1.12 (2) "felony murder" means a violation of Minnesota Statutes, section 609.185, paragraph
1.13 (a), clause (2), (3), (5), (6), or (7); or 609.19, subdivision 2, clause (1).

1.14 Subd. 2. Establishment. The task force on sentencing for aiding and abetting felony
1.15 murder is established to collect and analyze data on the charging, convicting, and sentencing
1.16 of people for aiding and abetting felony murder; assess whether current laws and practices
1.17 promote public safety and equity in sentencing; and make recommendations to the legislature.

1.18 Subd. 3. Membership. (a) The task force consists of the following members:

1.19 (1) the commissioner of corrections or a designee;

1.20 (2) the executive director of the Minnesota Sentencing Guidelines Commission or a
1.21 designee;

- 2.1 (3) the attorney general or a designee;
- 2.2 (4) the state public defender or a designee;
- 2.3 (5) the statewide coordinator of the Violent Crime Coordinating Council;
- 2.4 (6) one defense attorney appointed by the Minnesota Association of Criminal Defense
- 2.5 Lawyers;
- 2.6 (7) one county attorney appointed by the Minnesota County Attorneys Association;
- 2.7 (8) two members representing victims' rights organizations appointed by the Office of
- 2.8 Justice Programs director in the Department of Public Safety;
- 2.9 (9) two members of a criminal justice advocacy organization, one of which is a licensed
- 2.10 attorney appointed by the commissioner of human rights; and
- 2.11 (10) an impacted person who is directly related to a person who has been convicted of
- 2.12 felony murder appointed by the governor.
- 2.13 (b) Appointments must be made no later than July 30, 2021.
- 2.14 (c) Members shall serve without compensation.
- 2.15 (d) Members of the task force serve at the pleasure of the appointing authority or until
- 2.16 the task force expires. Vacancies shall be filled by the appointing authority consistent with
- 2.17 the qualifications of the vacating member required by this subdivision.
- 2.18 Subd. 4. **Officers; meetings.** (a) The task force shall elect a chair and vice-chair and
- 2.19 may elect other officers as necessary.
- 2.20 (b) The commissioner of corrections shall convene the first meeting of the task force no
- 2.21 later than August 1, 2021, and shall provide meeting space and administrative assistance
- 2.22 as necessary for the task force to conduct its work.
- 2.23 (c) The task force shall meet at least monthly or upon the call of its chair. The task force
- 2.24 shall meet sufficiently enough to accomplish the tasks identified in this section. Meetings
- 2.25 of the task force are subject to Minnesota Statutes, chapter 13D.
- 2.26 (d) To compile and analyze data, the task force shall request the cooperation and
- 2.27 assistance of local law enforcement agencies, the Minnesota Sentencing Guidelines
- 2.28 Commission, the judicial branch, the Bureau of Criminal Apprehension, county attorneys,
- 2.29 and tribal governments and may request the cooperation of academics and others with
- 2.30 experience and expertise in researching the impact of laws criminalizing aiding and abetting
- 2.31 felony murder.

3.1 Subd. 5. Duties. (a) The task force shall, at a minimum:

3.2 (1) collect and analyze data on charges, convictions, and sentences for aiding and abetting
3.3 felony murder;

3.4 (2) collect and analyze data on sentences for aiding and abetting felony murder in which
3.5 a person received a mitigated durational departure because the person played a minor or
3.6 passive role in the crime or participated under circumstances of coercion or duress;

3.7 (3) collect and analyze data on charges, convictions, and sentences for codefendants of
3.8 people sentenced for aiding and abetting felony murder;

3.9 (4) review relevant state statutes and state and federal court decisions;

3.10 (5) receive input from individuals who were convicted of aiding and abetting felony
3.11 murder;

3.12 (6) receive input from family members of individuals who were victims of felony murder;

3.13 (7) analyze the benefits and unintended consequences of Minnesota Statutes and practices
3.14 related to the charging, convicting, and sentencing of people for aiding and abetting felony
3.15 murder including but not limited to an analysis of whether current statutes and practice:

3.16 (i) promote public safety; and

3.17 (ii) properly punish people for their role in an offense; and

3.18 (8) make recommendations for legislative action, if any, on laws affecting:

3.19 (i) the collection and reporting of data; and

3.20 (ii) the charging, convicting, and sentencing of people for aiding and abetting felony
3.21 murder.

3.22 (b) At its discretion, the task force may examine, as necessary, other related issues
3.23 consistent with this section.

3.24 Subd. 6. Report. On or before January 15, 2022, the task force shall submit a report to
3.25 the chairs and ranking minority members of the house of representatives and senate
3.26 committees and divisions with jurisdiction over criminal sentencing on the findings and
3.27 recommendations of the task force.

3.28 Subd. 7. Expiration. The task force expires the day after submitting its report under
3.29 subdivision 6.

3.30 EFFECTIVE DATE. This section is effective July 1, 2021.



Co Founders

Paul & Toni Cater / James & Linda Martinson

PO BOX 13381, Minneapolis MN 55414

Voicemail: 612-615-7673

Website: FMLR.org

Email: Fmlr.Minnesota@gmail.com

#FMLR

Felony Murder Law Reform Minnesota

To Whom It May Concern:

We are a group of Minnesota Families who have loved ones severely impacted by the injustice of the Felony Murder Law as currently written in Minnesota. In 2019 we started the grassroots movement to reform and/or abolish this law. Over the last 2 years we began working with many Minnesota criminal justice reform activists, the MACDL and have earned bipartisan support from elected officials.

Our goal is to provide a more just and fair system for all. We have found through our research of data with the Minnesota Department of Corrections, Minnesota Sentencing Guidelines Commission, conversations with impacted families and our own personal journeys that there is a high level of false equivalencies and prosecutorial overreach being used to mass incarcerated people of crimes they did not commit nor intend to commit.

We are looking for your support in our mission to bring awareness to this issue and change these unjust laws. We would appreciate the opportunity to meet with you and share our story, the data and our goal for a more fair and just Minnesota. We look forward to hearing from you.

Sincerely,

The #FMLR Team - Minnesota

PO Box 13381, Minneapolis MN 55414

VM: 612-615-7673

Toni & Paul Cater (co-founders) / Linda & James Martinson (co-founders)

Families coming together to reform Felony Murder Law In Minnesota & Nationally!

#FMLR-Minnesota Introduction:

Our 19 year old daughters (Megan Cater age 19 & Briana Maritonsen age 20) were indicted for 1st Degree Murder. The crazy thing is: They didn't kill anyone and they didn't intend to kill anyone. How then could they be charged with 1st degree murder? It is called the **Felony Murder Doctrine or Felony Murder Law.** If convicted under these laws the sentence is life in prison without the possibility of parole. There are many young men and women currently serving life sentences under this law.

What is the Felony Murder Law? This law allows for an individual to be charged with first-degree murder for a killing that occurs during the commission of a crime even if the individual is **not** the killer nor had any intent or forewarning of this crime.

Felony murder law is the only crime where an individual can be charged and convicted of a crime without the prosecutors having to prove any intent (mens rea). Keep in mind this is the most serious crime (1st degree murder) that a person can be charged and convicted with. Even the smallest of crimes committed by an individual, the prosecutor must prove intent.

There are many egregious examples of people serving time under this barbaric/archaic Felony Murder Law:

CASE: Ryan Holle - Felony Murder **Incarcerated Age: 20** Years Old Borrowed car and was not present when Murder Happened. Received LWOP

CASE: Felony Murder - August 2019...6 teens attempt to steal a car, the 75 year old owner comes out and shoots and kills the 14 year old, the other 5 are facing first degree murder charges which will mean life in prison.

CASE: *Krystal Shelton & Jamiccia Donnerson, Felony Murder, Age 18 & 16, First 48 hours show, March 5, 2009, Sentenced to 15 & 13 years and wer NOT even in the building! (Krystal is an amazing young woman and will meet to talk with you if you are interested)*

According to The Marshall Project article "Can It Be Murder If You Didn't Kill Anyone?" "England abolished its version of FML in 1957, followed by India, Canada, and all other common law countries, and the United States remains the only country where the felony murder doctrine still exists".

The following states no longer have felony murder statutes: Abolished-Ohio, Michigan, Hawaii, Kentucky. Reformed- Massachusetts, Arkansas, New Hampshire and New Mexico along with the most recent being California passed Senate Bill 1437 which was signed into law August 30, 2018. This bill amended California's felony murder rule and other common law doctrines related to accomplice liability for homicides. Illinois passed a reform in 2021. Florida, Maryland and Pennsylvania currently have bills in progress too. As you can see there is a real movement to get rid of the Felony Murder Law and we would really like to see Minnesota join in on this.

Some of the national data aligns almost perfectly with what we have found. California's team did extensive research and found that 72% of the women serving Life Without Parole under homicide had never killed anyone. They discovered the average age of a person convicted of Felony Murder was 20 years old! And the majority of people convicted under this law are young women and men of color. See our attached data sheets for the comparison of Minnesota's convicted persons stats.

Our daughters are labeled on all prison documents as a Violent offender, they are not eligible for any early release programs based on good behavior and/or participating in programming. Our "violent" daughters after their arrival to the Shakopee's Women's Prison:

1. Enrolled in College at Adam's State University within the first 6 months.
2. Applied and were accepted into the Prison Fellowship Academy (PFA). This is a 13 month program that takes women through a life transformation, that is Christian based. After successful graduation from this program, Megan & Briana became peer mentors to other women in the program.
3. Megan recently completed multiple college courses and was just accepted (1 of 8 women chosen) to participate in the Cosmetology Program.
4. Briana became a tutor for the GED program and after a year of this job she was asked to become a new inmate mentor to help provide a safe and encouraging role model. She as well continues to take college courses within the facility and through Adams State University.
5. Megan & Briana have volunteered to be a part of many different groups from the Christmas play choreographing, the Restorative Justice Committee, trauma through art, Feed My Starving Children, and will continue as programs are offered.
6. These young ladies work diligently to be a good role models, to mentor and encourage the other woman who are struggling, to be a positive team players, work with the staff for a positive environment.

Both of our daughters ended up taking a plea deal for 13 ½ years. Sadly they are some of the lucky ones that did not try and go trial and end up serving a life sentence with no possibility of parole. We have been gathering more stories from the women and men within Minnesota DOC who are serving lengthy sentences and LWOP sentences for being a part of a crime but not the murderer. We believe this is not justice and are looking for a more fair and just approach to the Minnesota Laws and sentencing.

Please go to our website to read some of the stories and see further information

FMLR.org



Megan Cater & Briana Martinson
Before this event, with family
visiting and as part of the PFA
Graduation Class Spring 2019
MCF Shakopee



Krystal Shelton completing
one of a few runs since being
released from incarceration. She
received her cosmetology license
while at MCF Shakopee and works
as a stylist, speaks on behalf of
wrongful incarceration and CJR
locally.



FINANCIAL COST BREAKDOWN

There are **473** relatively low risk incarcerated persons that will cost Minnesota Taxpayer's, nearly **\$500 Million** (\$488,655,835) Or **nearly \$18 Million per year** due to the process of over sentencing individuals for a crime they did not commit! If all of these individuals were charged with only the crimes they did commit and sentenced to those crimes the savings to the Minnesota Department of Corrections and taxpayers could be in excess of \$400 Million! Understanding that the Felony Murder Individuals make up over 6% of the total population of the Minnesota DOC.

The approximate costs to taxpayers to incarcerate an average age person in the State of Minnesota is \$37,960 per year. Based on the above data we calculated yearly cost to the taxpayers of Minnesota.

TOTAL YEARLY COST TO MINNESOTA TAXPAYERS \$17,955,080

Based on the above data we also calculated the median number of months per category (48 months – 120month sentence = 84-month median sentence) to generate a yearly and total cost to the taxpayers of Minnesota.

84 Months x 9 = 756 months

151 Months x 85= 12,835 months

211 Months x 71=14,981 months

271 Months x 54=14,634 months

331 Months x 62=20,522 months

421 Months x 77=31,417 months

TOTAL MONTHS (BASED ON AVG) = 95,145 MONTHS (THIS DOES NOT INCLUDE THE 115 LIFERS)

TOTAL COST TO MINNESOTA TAXPAYERS \$300,943,635*

(* \$37,960 per year equals \$3,163 per month cost of confinement)

This number DOES NOT include the 115 persons who were sentenced to LIFE with or without the opportunity for parole. What we know is most of these people will die in prison if these laws are not changed!

If the average age at conviction is 25, and life expectancy for an incarcerated person is 68. This would mean each of the 115 would be expected to live approximately 43 years in prison. Note that anyone sentenced to life with parole in Minnesota, the likelihood of being paroled is almost nonexistent.

115 persons x 43 years average age = 4945 years @ \$37,960 per year = \$187,712,200

AGAIN, COSTING TAXPAYERS MORE THAN \$488,655,835

What believe is these numbers are likely LOW! Due to limited data as shown, we are unaware of the exact number of months and the exact age at conviction in the MN DOC Data breakdown

FELONY MURDER LAW

The below data comes from the Minnesota Department of Corrections**

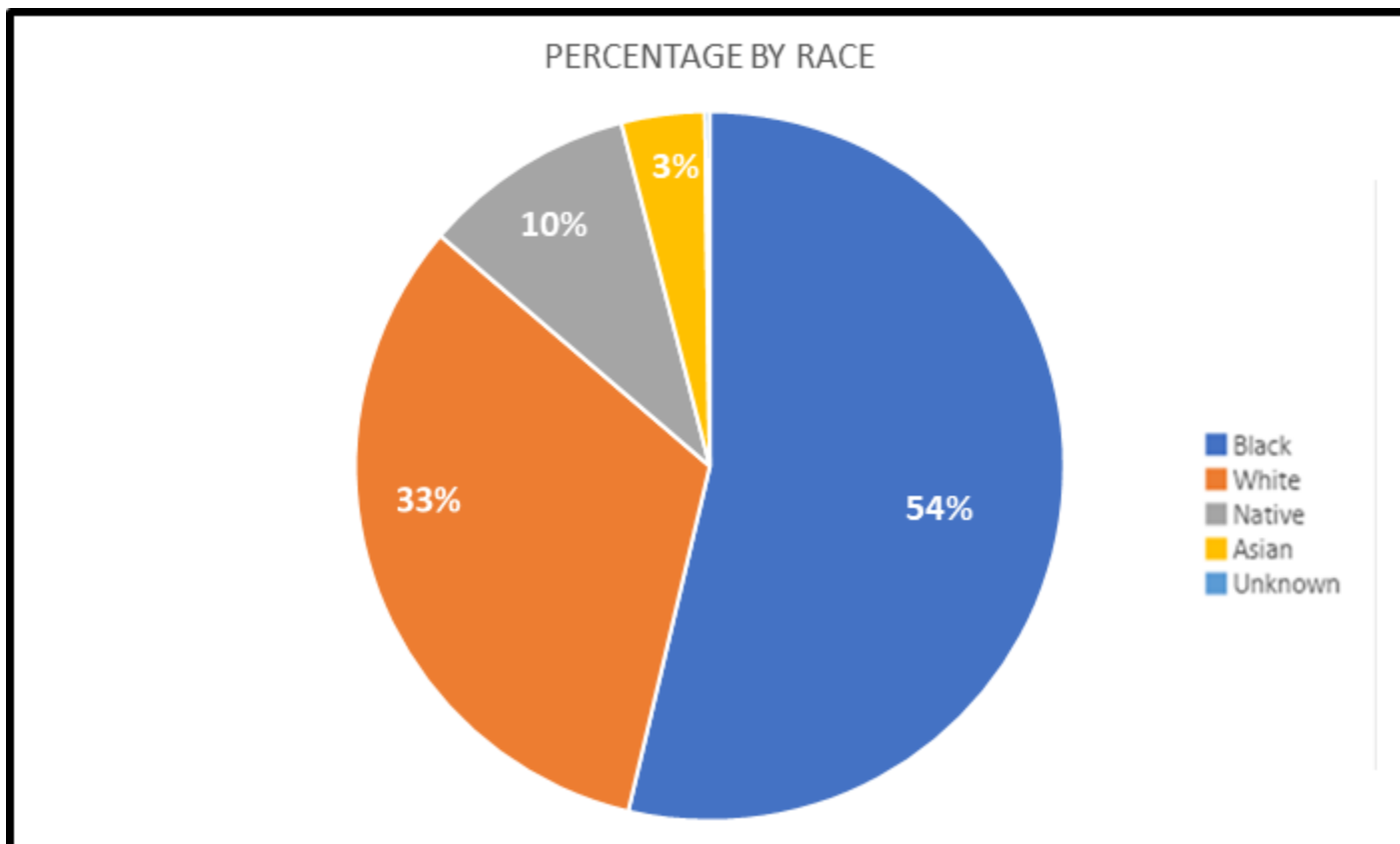
These are individuals currently serving time under the Felony Murder Laws of Minnesota.

RACIAL MAKEUP

Gender/race	F	M	Total
Black	13	241	254
White	16	138	154
American Indian or Alaskan Native	7	39	46
Asian or Pacific Islander		18	18
Unknown	1		1
Total	37	436	473

Based on the Population in Minnesota we know that:

1. A Native American is 10X more likely to be charged under the Felony Murder Laws
2. A Black American is 5X more likely to be charged under the Felony Murder Laws



AGE BREAKDOWN

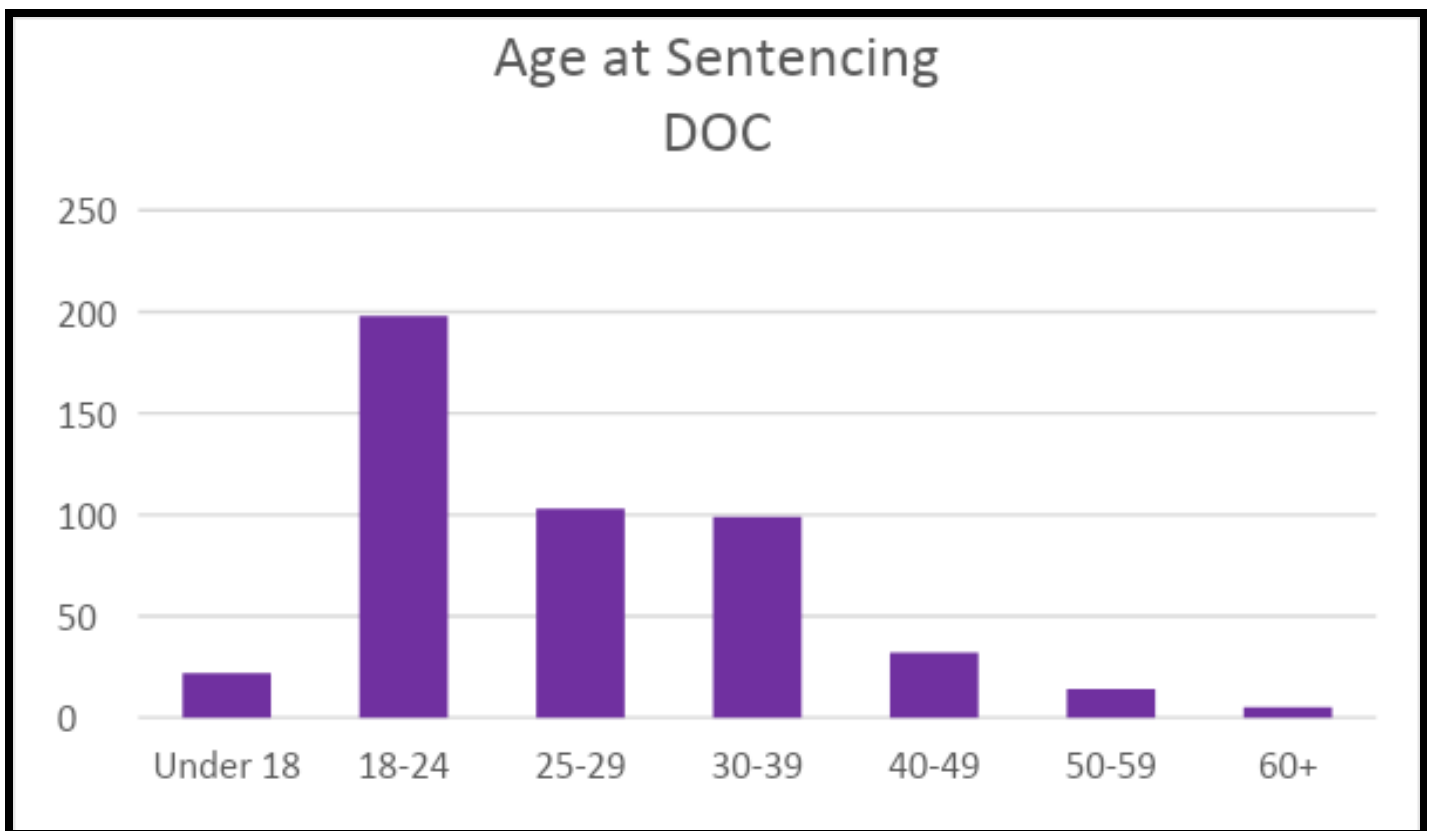
Age at sentencing	n
Under 18	22
18-24	198
25-29	103
30-39	99
40-49	32
50-59	14
60+	5
Total	473

47% of total persons are UNDER the age of 24 years old

The young adult and adolescent brain does not fully develop until on or after the age of 25, specifically the prefrontal cortex. The lack of prefrontal cortex development in young brains impacts the control and a human's ability to:

- delay and reflect (the lack of development limits the amount of time juveniles will think before they act).
- take all options into account (juveniles are extremely impulsive).
- contemplate risks and consequences (sensation seeking is at an all-time high at mid-adolescence).
- have social intelligence (juveniles have difficulty being empathetic and are susceptible to peer pressure).

*Source- the American Bar Association article "How the Juvenile Brain Functions"

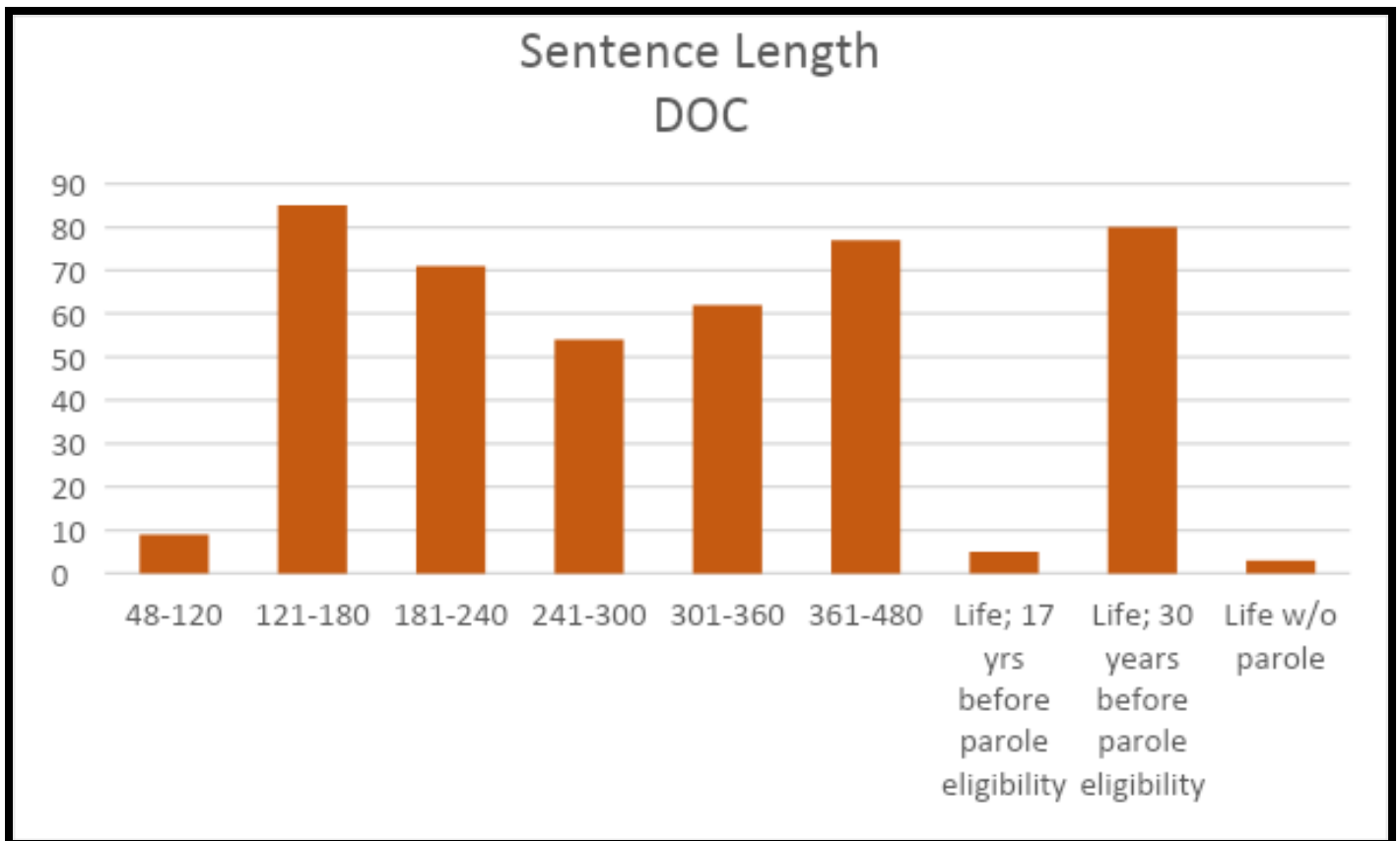


SENTENCING BREAKDOWN BY MONTHS

Duration of longest qualifying sentence	n
48-120 months	9
121-180 months	85
181-240 months	71
241-300 months	54
301-360 months	62
361-480 months	77
Life; 17 years before parole eligibility	5
Life; 30 years before parole eligibility	80
Life without parole	30
Total	473

What this Data shows is these laws are not consistent in sentencing. One person may receive as little as 48 months while another receives Life Without Parole for similar levels of culpability in a crime. There are also cases of persons who received probation with similar cases.

The way the laws are currently written and used allow a prosecutor and District Attorney's complete discretion in what charges are brought forth and what plea deals are offered. Allowing for large discrepancies and disparities in sentencing.



FINANCIAL COST BREAKDOWN

There are **473** relatively low risk incarcerated persons that will cost Minnesota Taxpayer's nearly **\$500 Million** over the course of their confinement, due to the process of over sentencing individuals for a crime they did not commit.

TOTAL YEARLY COST TO MINNESOTA TAXPAYERS IS \$18 MILLION.

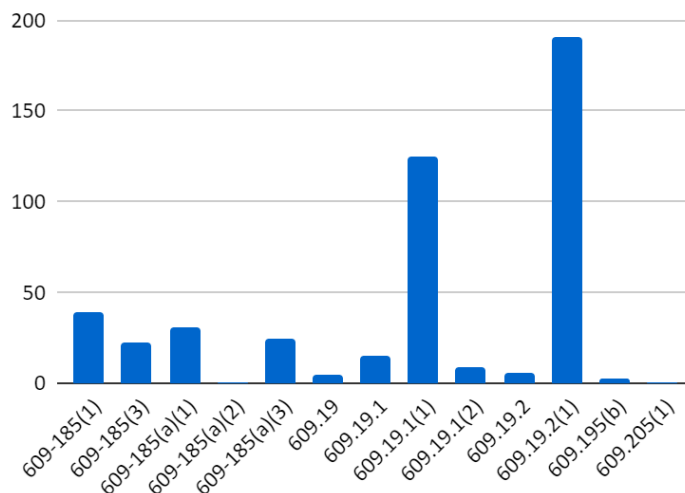
If all of these individuals were charged with only the crime they did commit and sentenced to those crimes this could be a **savings in excess of \$400 Million** to the Minnesota Department of Corrections and taxpayers.

Note that the Felony Murder Individuals make up over 6% of the total population of the Minnesota DOC.

**These numbers are likely LOW as the above data does not give the exact number of months and the exact age at conviction in the MN DOC Data breakdown*.*

The calculations above are based on the published data that the cost of confinement to an average age person in the State of Minnesota is \$37,960 per year. This is based on MN Doc provided information of \$104 a day per person cost of confinement.

THE MINNESOTA STATUTES WHICH THE 473 ARE CONVICTED UNDER



MN SENTENCING GUIDELINES DATA

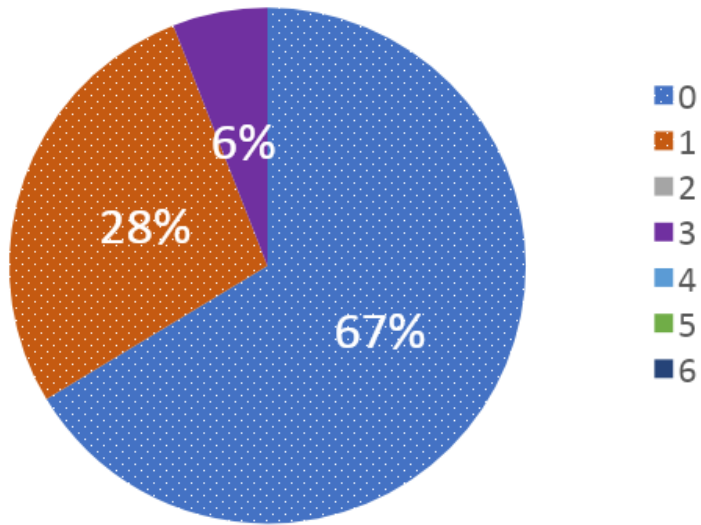
Below you will find additional data around the Felony Murder convictions in Minnesota. The data from the MN DOC does not include several items of importance and some aspects of the history of those sentenced above. The below data was requested from the Minnesota Sentencing Guidelines Committee for all information on those convicted of 609.19 Subd 2 (1). This statute is Second Degree Unintentional Murder while committing a felony. The below data reflects the information provided. This is an effort to go a bit deeper into the facts on these cases.

MN SENTENCING GUIDELINES DATA 2014-2019***

Statute 609.19, sub 2 (1) ONLY

CRIMINAL HISTORY SCORES

Criminal History Score
Female

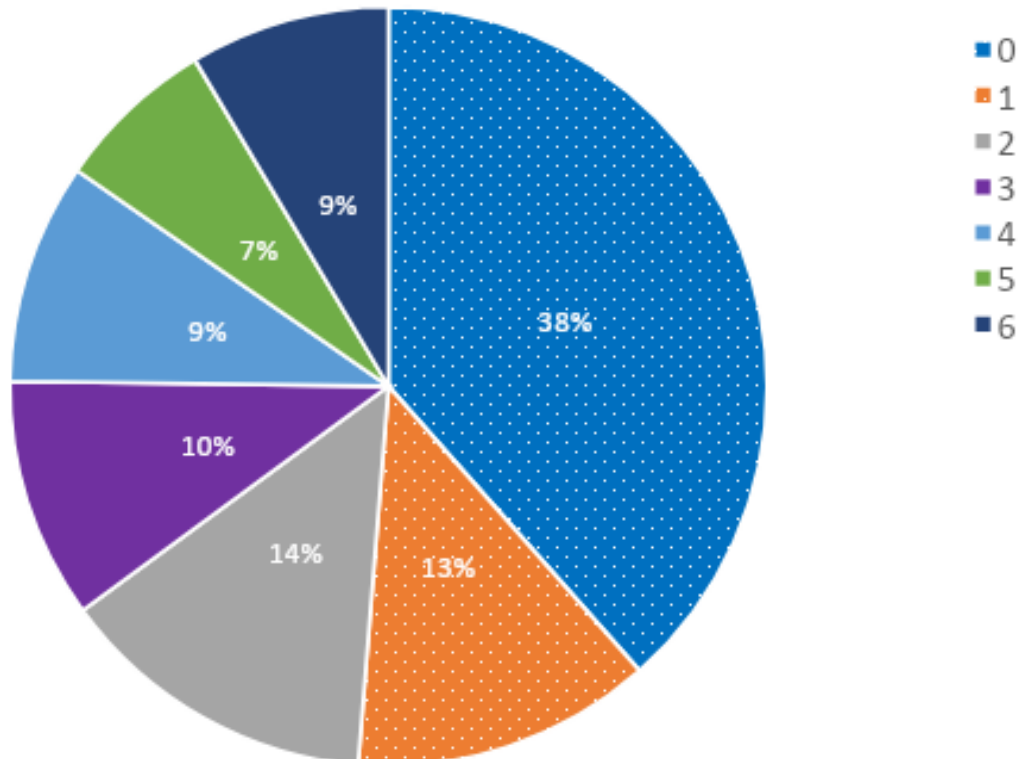


Criminal History Scores show whether a person has any prior convictions. The score is intended to be used as an indicator for the sentencing guidelines.

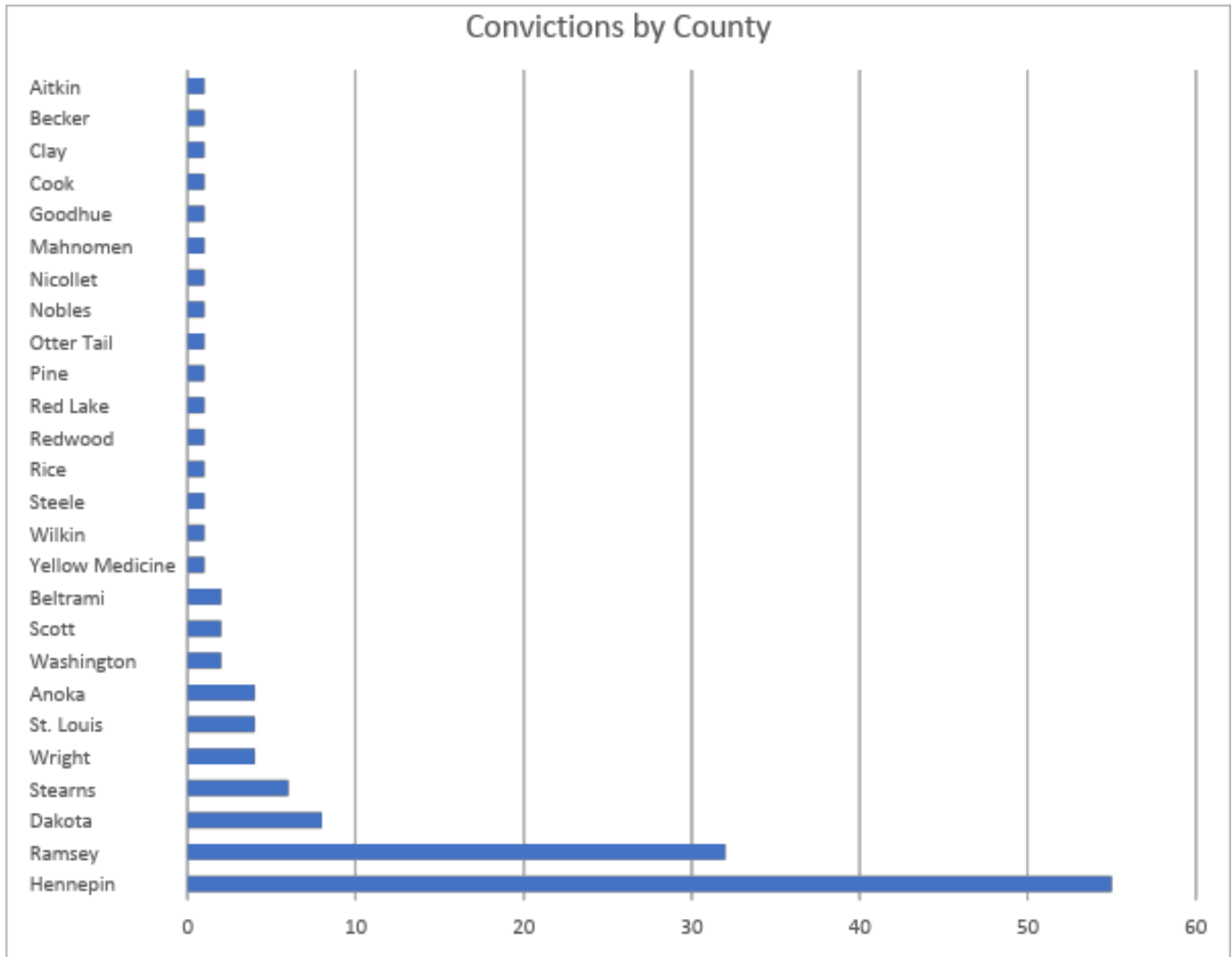
What you will see is that majority of the women have no or minimal criminal history scores. (94%)

And 51% of the men have a similar history. We know based on the average sentences that these scores are not playing a role in the sentence length when it comes to Felony Murder convictions.

Criminal History Score
Male



SENTENCING BY COUNTY



A FEW FACES OF FELONY MURDER MINNESOTA



Maureen

Age at time of event: 28
Current Age: 34
Sentence: Life Without Parole



Roberto L.

Age at time of event: 16
Current Age: 35
Sentence: Life with possibility of parole



Kevin R.

Age at time of event: 18
Current Age: 34
Sentence: 23 years



Coley G.

Age at time of event: 19
Current Age: 43
Sentence: Life in Prison with Possibility for Parole



Sade S.

Age at time of event: 18
Current Age: 30
Sentence: 15 years



Karole W.

Age at time of event: 23
Current Age: 40
Sentence: 25 years