

**Supporting Criminalized Survivors: The Ongoing Need for Minnesota to Pass the
Survivor’s Justice Act**

By: Lucy Moran

On December 13, 2021, [Samantha Heiges](#) was released from one of Minnesota’s prisons after serving 12 years for causing the death of her baby. In front of Minnesota’s Board of Pardons—composed of Minnesota’s Governor, Chief Justice, and Attorney General—Heiges [tearfully expressed](#) what transpired on that day and the months leading up to it. Heiges told the story of how initial celebrations of Heiges’s pregnancy quickly evolved into months of physical and emotional abuse at the hands of her intimate partner and father of her child, Erik Matlock.¹ After multiple attempts to end her pregnancy, Heiges gave birth to her baby boy on May 6, 2005.² She explained that in the moments after giving birth, Matlock threatened to kill her if she did not kill the baby.³ The Minnesota Board of Pardons heard her story and decided to commute her sentence, with [Governor Walz stating](#) “we believe you’re going to be successful and you’re going to make this work and society is better served.”

Not all survivors of gender-based violence get such a positive ending with Minnesota’s current pardon system. In 2019, the same members of the Minnesota Board of Pardons [declined](#) to grant a pardon to Amreya Shefa. Shefa was convicted of manslaughter in 2014 for stabbing her husband to death.⁴ Despite her testimony in front of the Board that her husband had “kept her

¹ State v. Heiges, 606 N.W.2d 1, 4 (Minn. 2011).

² *Id.*

³ *Id.*

⁴ State v. Shefa, No. A15-0974, 2016 WL 3042908, at *1 (Minn. Ct. App. May 31, 2016).

prisoner” in their home and “repeatedly raped her,” former Chief Justice Gildea [told her](#), “you had options available to you that night. Options that you did not take.”

Minnesota’s current system of examining pleas for pardons and commutations of sentences on an ad hoc basis is applied inconsistently and leaves the door open for bias. Even though the Minnesota Legislature altered the Board of Pardons’ unanimous voting requirement to a [simple majority](#) and there is now a [Clemency Review Commission](#) that reviews petitions before the Board of Pardons, these changes do not guarantee that survivors of gender-based violence will be able to achieve a fair shot at commutation.

Some states in recent years have attempted to remedy the inconsistent treatment of gender-based violence survivors by legislative initiatives. Illinois and New York have passed legislation that 1) incorporates factors into sentencing decisions that consider whether someone’s experience of gender-based violence has played a role in their offense and 2) instituted a re-sentencing process to give those already convicted a chance to be resentenced.⁵ Other states—including Minnesota—have [introduced](#) similar legislation, although many have failed to successfully pass through their legislatures.

These legislative measures correctly recognize the close relationship between survivors of violence and paths to crime. [1 in 3](#) women⁶ have experienced some form of physical violence by an intimate partner. Victims of intimate partner violence are more vulnerable to incarceration

⁵ Act of May 25, 2015, Pub. Act 099-0384, 2015 Ill. Laws 5573 (codified at 730 ILL. COMP. STAT. 5/5-5-3.1(a)(15)); Domestic Violence Survivors Justice Act, ch. 31, § 1, 2019 N.Y. Laws 144, 145–46 (codified as amended at NY PENAL LAW § 60.12(1) and NY CLS CPL § 440.47(1-4)).

⁶ This blog post mostly discusses intimate partner violence as experienced by women in heterosexual relationships. This is not meant to minimize the reality that men and non-binary people experience violence in both heterosexual and non-heterosexual relationships and that women/non-binary people also experience violence in non-heterosexual relationships. Instead, I am choosing to focus on using this gendered language throughout to reflect the reality that intimate partner violence perpetrated by men in heterosexual relationships is far more common

than people who have not experienced abuse.⁷ This can either be by “direct” paths to victimization, which involve a layer of coercion from the abusers, or “indirect” paths to victimization, which involve prolonged exposure to violence and abuse in childhood or early adulthood that increases the risk of engagement in criminalized activities as well as increases vulnerability for arrest and prosecution.⁸

Violence perpetrated by women is also often in response to their own victimization.⁹ In fact, current estimates indicate that up to 90% of women in prison for killing men had previously been abused by those men.¹⁰ In addition, women are punished more severely for resorting to violence than men, with the average prison sentence for men who kill their female partners being 2-6 years, and the average prison sentence for women who kill their male partners being 15 years.¹¹

Initially, victims were encouraged to raise affirmative self-defense arguments to charges of violence against their abusive partners, however, the effectiveness of such arguments is limited.¹² Self-defense statutes often require a physical threat to be “imminent”, which is inconsistent with how people experience trauma—with one scholar noting that, “the battered

⁷ Melissa E. Dicter with Sue Osthoff, *Women’s Experiences of Abuse as a Risk Factor for Incarceration: A Research Update*, VAWNET (July 2015), https://vawnet.org/sites/default/files/materials/files/2016-09/AR_IncarcerationUpdate.pdf.

⁸ *Id.* at 5.

⁹ Susan L. Miller & Michelle L. Meloy, *Women’s Use of Force: Voices of Women Arrested for Domestic Violence*, 12 VIOLENCE AGAINST WOMEN 1 (2006); Ellyn Joy et al., Common Themes in Clinical Work with Women who are Domestically Violent, 33 AMERICAN JOURNAL OF FAMILY THERAPY 1 (2005).

¹⁰ *Words From Prison – Did You Know...?*, AMERICAN CIVIL LIBERTIES UNION (June 2006), https://www.aclu.org/documents/words-prison-did-you-know?redirect=words-prison-did-you-know#_edn42.

¹¹ See Mona Chalabi, *Are women punished more harshly for killing an intimate partner?*, THE GUARDIAN (Jan. 2019), <https://www.theguardian.com/news/datablog/2019/jan/12/intimate-partner-violence-gender-gap-cyntoia-brown#:~:text=Statistics%20cited%20by%20the%20ACLU,on%20average%20to%2015%20years> (“Research also suggests that women are given harsher punishments when they have committed crimes that are perceived as more masculine, such as murder.”).

¹² Carol Jacobsen et al., *Battered Women, Homicide Convictions, and Sentencing: The Case for Clemency*, 18 HASTINGS WOMEN’S L.J. 31, 38 (2007).

women’s perception of imminent danger is altered by the psychological effects of violence.”¹³ Further, many victims of intimate partner violence may not “look” or “act” like victims if they fight back, and as such, jurors are hesitant to validate their concerns.¹⁴

State statutory initiatives that incorporate factors into sentencing decisions as well as create opportunities for new sentences that more appropriately consider whether victimization played a role in offenses seem a much more promising response to this issue. Since New York and Illinois passed their new statutes, [forty-four survivors](#) have benefitted. It is time for Minnesota to follow suit.

In 2022, the University of Minnesota Law School’s Clemency Project spearheaded a bill entitled the “[Survivor’s Justice Act](#).” [Modeled after the New York statute](#), [the bill](#) encouraged judges to reduce sentences for victims of domestic abuse, sexual assault, or sex trafficking, who have committed crimes as a result of their abuse, as well as give those offenders already doing time the chance to petition for resentencing. On March 3 and 8, 2022, the Minnesota House Public Safety and Criminal Justice Reform Finance and Policy Committee held [informational hearings](#) on the bill. Samantha Heiges testified [stating that](#) “there are others just like me who have committed crimes in the context of, and as a result of, their experience of an abusive relationship.”

However, despite widespread [support](#) in the advocacy community, the bill has not received another hearing since 2022. Hopefully, this will change in the 2024-2025 legislature session, as the need for reform is well overdue. Survivors of gender-based violence deserve a legal system that recognizes the full extent of their experiences and provides them a path toward

¹³ Christine Grant, *Women Who Kill: The Impact of Abuse*, 16 ISSUES IN MENTAL HEALTH NURSING 315 (1995).

¹⁴ Mary E. Gilfus, Women’s Experiences of Abuse as a Risk Factor for Incarceration, VAWNET (Dec. 2002), https://vawnet.org/sites/default/files/assets/files/2017-08/AR_Incarceration.pdf.

justice and healing. Passing the Survivor's Justice Act is not only a crucial step in achieving this, but it would also send a message that the state of Minnesota stands with and cares about survivors of gender-based violence and is committed to ensuring they are treated with fairness and compassion.