



STATE OF MINNESOTA

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NDELL R. ANDERSON
GOVERNOR

April 13, 1976

The Honorable Martin O. Sabo
Speaker of the Minnesota
House of Representatives
276 State Office Building
St. Paul, Minnesota 55155

Sir:

I am returning H.F. 1865, the determinate sentencing bill without my signature.

I support the concept of determinate sentencing, and I believe that it should be tried in Minnesota. I also appreciate the great and sincere effort that has been made to carry this concept into law during this session of the Legislature.

However, H.F. 1865 has a number of serious inadequacies that could be corrected by further legislative attention, and I am convinced that should be done before we permit determinate sentencing to become law in Minnesota.

My major concern is that H.F. 1865 simply deals inadequately with chronic dangerous offenders. While there is provision for extended terms for such offenders in the legislation, there is no definition of penalty. At best, the omission of such a definition results in confusion for judges who are required to develop their own standards for extended terms. At worst, it will result in non-use of extended terms; the basic determinate sentences in the bill would then result in sentences that are too short for chronic dangerous offenders convicted of first and second degree murder and aggravated rape.

Without an extended term, for example, the heaviest sentence that could be imposed for first degree murder would be twenty years plus fifteen percent, or twenty-three years. The "good time," or good behavior provisions of the bill, would permit

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a prisoner to reduce such a sentence to eleven and one-half years, and be released unconditionally, no matter what his previous record had been or what were the circumstances under which the murder was committed.

In 1973, I vetoed legislation which would have reduced the minimum penalty for first degree murder to ten years and three months with good behavior. Without the extended term option, H.F. 1865 would reduce the maximum term, with good behavior, almost to that level.

Supporters of the legislation indicate that the absence of a definition of extended terms is an inadvertent omission and can be corrected before the bill is to take effect next April.

No doubt, that is true. But I believe the best way to insure that such a correction is made, and to protect the public from potential early release of prisoners convicted of major felonies, is to veto the bill at this time.

Additional work will also clarify the groupings to which present law, interim law, and future law apply. It is unclear, for example, whether persons now imprisoned become eligible for release under the provisions of this legislation. More specific language would reduce the likelihood of litigation over this issue, in my judgment.

What is proposed in this legislation is a major policy change, from indeterminate sentencing with a significant judgment role for the State Parole Board to determinate sentencing without later opportunities for modification by such a board. Such a step has consequences that must be carefully considered. Any changes we make in our criminal code must receive careful and sensitive consideration.

The bill itself anticipates problems by establishing a special study to make changes before the bill goes into effect. In my judgment, the wiser course is to wait until that study is completed before attempting to place this concept into law.

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I will be happy to cooperate with the legislative leadership in establishing such a study, in the absence of legislative authority in the vetoed bill. I look forward to receiving a corrected bill, perhaps in time to take effect in April, after the Legislature has given additional attention to the inadequacies of H.F. 1865. In my judgment, that is the most positive way to achieve our common goal of providing determinate sentencing along with adequate protection from the premature release of dangerous prisoners.

Sincerely,

Wendell R. Anderson

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