

# MINNESOTA

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## Pardon process gets fresh look

The Legislature is considering changes to Minnesota's stringent system that requires a unanimous vote.

By LOUIS KRAUSS  
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Minnesota is the only U.S. state that requires three top state officials to unanimously sign off on pardons or commutations of past criminal convictions, but state lawmakers are considering a proposal to lower that high bar.

Gov. Tim Walz — who sits on the Board of Pardons along with Attorney General Keith

Ellison and Supreme Court Chief Justice Lorie Skjervén Gildea — is backing the legislation, along with the state Department of Corrections and a variety of advocacy groups.

Under current law, Walz, Ellison and Gildea all need to vote in favor of a pardon for it to be granted. The unanimous vote requirement is unique to Minnesota, as all other states either give the governor sole

control over whether a pardon is granted, or require the majority of a board to vote in favor of it. Only in Minnesota can one dissenting vote sink the process.

The current arrangement dashes the hopes of too many deserving people trying to change their lives and re-enter society, say the backers of the House and Senate bills.

"It makes it incredibly hard to receive a pardon, and for

people who have turned their lives around and done everything right since a conviction," said Rep. Esther Agbaje, DFL-Minneapolis, lead sponsor in the House.

Walz and Ellison, both Democrats, have at times joined in backing pardons or commutations that Gildea rejected. The chief justice was first appointed to the court by former Gov. Tim Pawlenty, a Republican.

Under the new proposal, only two of the three would need to vote in favor of a pardon or commutation for it to be granted, as long as the majority includes the governor.

In recent years the state has recorded a much lower number of pardons compared with many nearby states. But applications are increasing. After processing 57 clemency applications in 2018 (16 of which

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## Court backs her quest to go home

Quadriplegic Mankato woman is seeking to free herself from guardianship.

By CHRIS SERRES  
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In a case closely watched by disability rights advocates, a Mankato woman has won a temporary legal victory in her monthslong struggle to regain control of her personal decisions from a court-appointed guardian.

Cindy Hagen, a 49-year-old who became quadriplegic after a childhood car accident, has been at the Mayo Clinic hospital in Austin, Minn., since last July, even after she was deemed healthy enough to leave, because she has been unable to find enough staff to provide care at her apartment in Mankato.

After several failed attempts to move Hagen to a facility for seniors, a Blue Earth County District Court judge in January placed her under an emergency guardianship — which gave an outside entity control over nearly every aspect of Hagen's life. Hagen and her attorney have insisted that she is capable of making decisions on her own, and that a guardian is not necessary.

Now, after two months of contested proceedings, Hagen has won back her independence — for now.

A Blue Earth County District judge approved an agreement last week that lifts the emergency guardianship, allowing Hagen to transition to a home of her choosing. The agreement comes with a caveat. The guardianship will be reinstated if Hagen does not arrange in-home care and move by May 12.

Although the threat of a  
See **DISABILITY** on B2 ►

## Triplexes facing hurdles in Mpls.

North Side developers forced to scale down plans.

By SUSAN DU  
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Lena Gardner's vision for a slate of vacant properties in north Minneapolis was exactly what city leaders said they want: denser, more affordable housing on former single-family lots.

The neighborhood supported it. The city offered her nonprofit, Black Lives of Unitarian Universalism (BLUU), assistance to fund it.

But when she presented the plan for the first triplex to the city, planning staff said it didn't fit the neighborhood. A City Council committee agreed, telling her to go back to the drawing board.

Gardner had to scale the project back, eliminating amenities like balconies and shrinking the third floor. While construction is on schedule to begin this summer, she's not sure whether she will run into the same obstacles for the next seven lots in her pipeline.

"I think that zoning law could change to be more reasonable and equitable because we are trying to provide housing — we're providing four-bedroom, 2½-bath, brand-new construction with significant investments from the city of Minneapolis," Gardner said.

Despite the 2040 Comprehensive Plan's elimination of single-family zoning four years ago, zoning codes have not yet been updated to align with the plan, making it hard to redevelop lots into multifamily housing.

BLUU snapped up eight tax-forfeited properties in 2019 with plans to build triplexes on each lot. A total of 24 units would be sold to people making at most 60% of area median income. The homeowners would form a limited-equity housing cooperative, sharing  
See **HOUSING** on B2 ►



## SPRING? BRRRRRING IT ON

A large wave smashed into the shoreline along Duluth's Canal Park on Tuesday as a spring storm pummeled the North Shore. Carlton and southern St. Louis counties were under a winter storm warning until 7 p.m. Wednesday with wind gusts of up to 60 mph. Those gale-force winds could also churn the waters of Lake Superior, potentially creating 20-foot-high waves.

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## Republicans rally at Capitol in opposition to DFL priorities



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"Stop the madness," yelled Judy Kretzschmar of Bagley, Minn., during a Minnesota GOP "Freedom Rally" at the State Capitol.

Spending plans, policies on abortion, guns and gender care dismay GOP.

By JESSIE VAN BERKEL  
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Republicans chanting, "It's our surplus, give it back!" and wearing shirts with the slogan "stop the madness" rallied Tuesday at the State Capitol to proclaim that Democrats' spending and policy plans have gone too far.

The DFL won full control of state government last

year. Lawmakers have since pushed to protect abortion access, add gun restrictions and ensure transgender people from other states could get gender-affirming medical services in Minnesota. Those policy measures, coupled with proposed spending increases, were at the center of much of Tuesday's angst.

"What the Democrats are doing are ramming through all these liberal [policies]. It's not the majority. I'm from rural Minnesota ... We have different values," said Judy Kretzschmar of Bagley. "We

cherish our kids and we value the Second Amendment."

She and two dozen others chartered a bus from Bemidji to attend the rally, which Kretzschmar said is the first she's attended at the Capitol. She said Minnesotans are tuning into the legislative action and asking themselves, "What is at risk here?"

The rally landed on the same day former President Donald Trump appeared at a Manhattan courthouse for his arraignment, where he pleaded not guilty to  
See **RALLY** on B5 ►

## 3 finalists named for chief public defender

By KIM HYATT  
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Three finalists have been selected to lead the Hennepin County public defender's office, a position that's turned over twice in the past three years.

The Minnesota Board of Public Defense looks to name a new chief following a final round of interviews April 11, according to a list of finalists obtained by the Star Tribune. The finalists include: Michael Berger, Greg Egan and Shawn Webb.

The position oversees the state's largest public defender's office with a budget of about \$9 million and more than 200 staffers.

Hennepin County has been without a chief public defender for half a year. Former chief Kassius Benson resigned in October after news surfaced over the summer of an IRS investigation into his private practice, along with a drunken driving charge. He was indicted on 17 counts of federal tax evasion in February.

Benson had replaced Mary Moriarty, after the board declined to reappoint her in 2020. An investigation found that she fractured relationships  
See **DEFENDER** on B5 ►

# Guardianship fight is closely watched by advocates for disabled

◀ **DISABILITY** from B1

guardianship still looms, Hagen expressed relief that she would once again be able to avail herself of freedoms that most people take for granted. For the past few months, Hagen said she has lived in fear that a guardian would move her to a nursing home or other site far removed from her apartment and community of friends in Mankato, where she led an active life before she was hospitalized last summer for an infection.

"I finally have my freedom back," Hagen said from her hospital room. "But it's really scary to think that they could strip away my right to make my own decisions and send me wherever they want. ... What kind of life is that?"

Hagen's struggle to win back her autonomy galvanized many in the disability rights community, who have long argued that Minnesota's system for appointing guardians is heavy-handed and overused. For decades, guardians have been granted broad authority over the housing, medical care and even the personal relationships of people they are assigned to protect. Judges often grant this authority based on limited information and assumptions that people with disabilities are incapable of making major life decisions, say attorneys and disability advocates.

Some likened her plight to that of pop star Britney Spears, who lost control of her finances and career after a court deemed she was unable to care for herself and appointed a conservator, even as she continued to perform for her fans.

"We should all be very troubled by this case because it could happen to any one of us," said Nancy Fitzsimons, a professor of social work at Minnesota State University, Mankato. "It should be really hard to take away a person's autonomy. But in Cindy's case, her rights were stripped away simply because she was making choices that were not convenient."

The case has drawn attention to the state's severe shortage of health care workers, which has caused many people to languish in acute-care hospital rooms long after they were well enough to leave.

A survey of 95 hospitals showed patients received 14,622 more days of care than necessary — in one week in mid-December. Many patients are being discharged to facilities more than 100 miles from their homes because of staffing shortages,

hospital administrators say.

Hagen's case was complicated by the fact that she insisted on living independently, rather than in institutions, which is ultimately what led to the guardianship proceedings.

Blue Earth County cited her repeated refusal to be discharged to skilled nursing homes and other facilities as evidence that she had impaired decision-making and was "lacking sufficient understanding of the reality of her situation," and hence was in need of a guardian, according to the county's guardianship petition.

In interviews, Hagen acknowledged that she sometimes gets upset with staff when she feels ignored but insists she is mentally sound enough to make decisions. Hagen noted that she has lived independently with support staff for three decades and helped lead a grassroots campaign in Mankato (called "How I walk") designed to improve sidewalk safety for people in wheelchairs.

"I cannot tell you how frustrating it is to have people, even medical professionals who should know better, treat me like I am mentally impaired when it is my physical body that is broken," Hagen wrote in a written statement to the court. "The guardianship is an extension of that."

For now, Hagen said she is confident that she will find enough staff to return home by early May. Blue Earth County Human Services has approved a robust mix of services, including round-the-clock home care. Her attorney, Misti Okerlund, said they have identified eight people prepared to care for Hagen at her home, although not all of them have completed background checks.

"Cindy is going home," Okerlund said, "and we will stop at nothing to get her there — and with her civil liberties preserved."

Hagen, who has not been outside a hospital room for nearly nine months, has begun to imagine what she will do when she returns home. She plans to plant some spring flowers, adopt a cat or two, go to rock concerts with friends and become more involved in disability rights campaigns.

"The very first thing I'm going to do is go outside and take the biggest and deepest breath of fresh air I've ever taken," she said, "and then probably bawl my eyes out."

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# Legislature considers changes to pardon process

◀ **PARDONS** from B1

were granted), it shot up to 185 applications in 2021, 41 of which were granted. The number of applications dropped slightly in 2022 to 169, and 44 were approved.

In comparison, Wisconsin Gov. Tony Evers announced in December he has granted 774 pardons since 2019, compared with 128 people granted clemency in Minnesota over the same years.

Walz said Minnesota needs to remove the unanimity requirement to become fairer to applicants who deserve clemency. The state issues too few pardons each year, he said.

"One of the things maybe Republicans conflate on this is crime and redemption," Walz said. "These people are decades past paying for their crime — they're past everything."

The governor said he takes issue with the fact that the unanimous vote gives veto power for a pardon back to the court system after it issued the conviction originally.

The courts "should be part of the process, but I think you get a better representation when the executive [branch] has the ability to issue this clemency to folks," Walz said.

The proposal also attempts to make the application process more accessible. The legislation allocates \$986,000 annually to establish a nine-member "clemency review commission" that would take over reviewing Minnesota's growing number of applications. Each Board of Pardons member would appoint three commission members.

The commission would vote on whether to recommend clemency before the Board of Pardons makes a final vote. The goal would be to process more applications each year. The number of applications is expected to continue to increase, and could double to 370 or more next year, according to a DOC fact sheet about the bill.

Republicans have concerns, especially over the proposed removal of the unanimity requirement. Rep. Paul Novotny, R-Elk River, said he doesn't believe there is a problem with the current system.



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Under current state law, Attorney General Keith Ellison, Gov. Tim Walz and Minnesota Chief Justice Lorie Skjerven Gildea, left to right, must agree on pardons of past criminal convictions.

"It's just another attempt to water down the process that has worked in the past," Novotny said. "I think they're fixing something that's not broken — spending a million dollars on it."

Other Republicans said they support the benefits of a separate commission, but want the unanimous vote rule to stay.

"Pardons are a big deal — these are people that have already had their due process and have been convicted, many of them serious crimes," said Sen. Michael Kreun, R-Blaine.

Kreun said while he is against the proposal as is, he supports adding six paid staff members who would assist the commission and petitioner, and help connect involved victims to services. The measure would also allow victims to provide confidential statements for a pardon hearing if they fear appearing in person.

Gildea declined to comment, with a spokesperson saying that the Supreme Court "does not weigh in on pending legislation." In a statement, Ellison said he has concerns that the commission, as written, would take away the Board of Pardons' role of having direct meetings with those involved in the pardon process.

"I support a bill that preserves direct, face-to-face contact between Board of Pardons

members and petitioners, victims, and community," Ellison said. "I do not support delegating that function to another body, except in cases where victims, courts, and prosecutors all agree the pardon should issue."

Ellison's spokesperson did not respond to a follow-up inquiry on whether the attorney general supports scrapping the unanimous vote rule.

Motivation for the bill stems from the pardon application and lawsuit by Ethiopian immigrant Amreya Shefa. She killed her husband in 2013 in what she claimed was self-defense after he raped and beat her. She was found guilty of manslaughter, and after her release in 2018, Homeland Security sought to deport her.

Shefa applied for a pardon, which could have stopped her deportation to Ethiopia, where her husband's family had sworn to kill her. Walz and Ellison voted in favor of the pardon, but Gildea dissented. Shefa's deportation case was "administratively closed" and put on hold after Walz requested Immigration and Customs Enforcement do so.

Shefa filed a lawsuit arguing the unanimous vote requirement was unconstitutional. A Ramsey Court judge sided with Shefa, but the Supreme Court overturned the decision.

Andy Crowder, Shefa's former lawyer, said he thinks the bill represents a much-needed change.

"Minnesota is way behind, and it's way behind because you have situations where one individual person can block somebody's pardon, and somebody who's not the governor," Crowder said.

The pardons can be life-changing. One recent success story is Zach Lindstrom, who went from spending nights in a Minneapolis treatment facility for drug and alcohol use to being elected to the Mounds View City Council last November.

Lindstrom was convicted of a gross misdemeanor for marijuana possession in 2005. He now works as a loan officer for a credit union, and he said the pardon has been an "enormous weight" off his shoulders.

It has also allowed him to go hunting with his kids, because the conviction prohibited him from owning a gun.

Lindstrom said he supports a switch to a majority vote requirement, saying that he thinks board members vote based on, in part, their own personal "lens" and life experience.

"Some of those lenses might not be as forgiving as they ought to be," Lindstrom said.

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# Triplex developers encounter zoning code obstacles

◀ **HOUSING** from B1

the costs of maintenance, child care and food-buying. The land would be kept perpetually affordable by the City of Lakes Community Land Trust.

Last summer BLUU and its partner Urban Homeworks, a developer of affordable housing rentals, received neighborhood approval for architect Damaris Hollingsworth's designs for the first of its triplexes at 1338 Logan Av. N. They received a commitment of \$923,000 from the Minneapolis Homes program to keep the purchase price affordable pending closing. But the plans required variances from the zoning code to increase the height by 1 foot and the gross floor area by about 1,000 square feet.

The developers argued that the lots' narrower-than-average size made it difficult to build a triplex without those variances, despite the 2040 Plan's endorsement of duplexes and triplexes in parts of the city formerly zoned for single-family homes. City staff recommended denying their request for the variances, countering that the bulk of the property would shadow its neighbors and fail to blend in. At the end of January, the City Council's Business, Inspections, Housing and Zoning Committee unanimously sided with staff, rejecting the variances.

No one from the neighborhood had complained about BLUU's triplex design. Project supporter William Wells, a triplex architect, criticized the city's review process as overly arduous for small developers of affordable



SUSAN DU • Star Tribune

Urban Homeworks' AsaleSol Young, left, and BLUU's Lena Gardner and daughter Winnie on N. Logan Avenue where the developers will construct the first of eight cooperative triplexes.

housing. The Northside Residents Redevelopment Council (NRRC) also made it clear it supported the variances, commending developers in a statement for "the care and time taken to develop this vision in collaboration with our community."

The neighborhood group had earlier voiced strong objections to a much larger 63-unit apartment complex proposed for the corner of Plymouth and Russell Avenues on the grounds that the neighborhood lacked a grocery store and other infrastructure to support the influx of residents. That development, which had asked the city for significant variances reducing various setbacks — including the front yard by

more than 30 feet — was nevertheless approved.

"NRRC recommends that before variances are reviewed by zoning the developer should be able to demonstrate actual community support for the requested variances," said Martine Smaller, NRRC executive director.

BLUU and Urban Homeworks submitted the new, scaled-back design that would not require any variances. It was approved in mid-February.

The project was left with "zero outdoor space," said Gardner. The redesign cost the developers \$45,000. Construction on 1338 Logan is set to begin this summer and last about a year and a half. Families could move in as soon as 2025.

Urban Homeworks Executive Director AsaleSol Young said they hope to recruit the first home buyers among people, especially single mothers, currently living in one of Urban Homeworks' 134 affordable rental homes. "Lena's focus, which aligns perfectly with Urban Homeworks' focus, is to really close the stability and wealth gap for Black and Indigenous families," Young said.

Despite voting to turn down the variances for 1338 Logan, City Council Member Jeremiah Ellison proposed working out a "sustainable solution" that developers face while building denser housing on small single-family lots.

"Important points were made about equity and maybe some of the law changes that need to happen," he said. "I want to better understand if this is going to be an issue that BLUU is going to run into on every single project that they have."

The city of Minneapolis' code development team is working on citywide land use rezoning, a part of implementing the 2040 Plan. The Land Use Rezoning Study is expected to be completed this summer. Once it's done, the code development team will turn to other zoning code updates, said Community Planning and Economic Development spokesman John Louis.

"How to reduce barriers for the production of missing middle housing in general is a goal and looking at regulatory barriers that may exist will be considered as part of that overall work," Louis said.

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Cindy Hagen talked on the phone from her hospital bed in the Mayo Clinic hospital in Austin, Minn. Hagen says she can't wait to get home and go outside in the fresh air.

# Dassel man is killed in crash near Howard Lake

A Dassel man was killed in a two-vehicle crash near Howard Lake on Tuesday morning, and the Minnesota State Patrol is investigating.

The man who died was identified as Toby Jo Birr, 46.

Officers responded at around 7:30 a.m. to the crash on Hwy. 12 near Keats Avenue SW. A Ford Taurus, driven by Birr, and a Ford box truck

were both traveling east on Hwy. 12 when they collided near Keats Avenue, according to the online incident report.

The truck driver was not injured in the crash, and alcohol was not involved, the State Patrol added in the report. The crash is still under investigation.

LOUIS KRAUSS

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Lena Gardner, Black Lives of Unitarian Universalism executive director