

**SB 395\_BAIR\_FAVOR.pdf**

Uploaded by: Bair, Gary

Position: FAV

**Gary E. Bair, Retired Judge**  
**Circuit Court for Montgomery County, Maryland**  
**P.O. Box 321**  
**Kensington, MD 20895**  
**[garyebair@gmail.com](mailto:garyebair@gmail.com)**

**POSITION IN FAVOR OF SENATE BILL 395**

I have been involved in juvenile justice issues over the past 45 years as a prosecutor, defense attorney, law school adjunct professor, and most recently, as a trial judge sitting on the Circuit Court for Montgomery County. As such, I have seen these matters from all perspectives. For the reasons stated below, I urge the Committee to issue a favorable report on Senate Bill 395.

The felony murder doctrine is a vestige of common law that is particularly harsh when applied to juveniles. It requires the court to impose a life sentence when someone dies during the course of a felony, even when one or more of the participants in the underlying felony did not intend to commit a homicide. Thus, a juvenile could be part of a group (which often is the case), whose involvement in a crime is tangential, and yet this child can be sentenced to life imprisonment. Teenagers are driven by peer pressure and group think and often are involved in criminal activity when in a group that they never would have done if alone.

Senate Bill 395 abolishes felony murder for juveniles going forward and allows for re-sentencing of those previously convicted of the crime. This is in line with national trends, both from the United States Supreme Court and other state court legislatures. The Supreme Court has recognized that juveniles are not “miniature adults” in many ways. The research and science tell us that their brains are not fully developed until age 25 or so and they lack the full appreciation of the consequences of their actions. I have studied this case law in connection with my law school teaching of Advanced Criminal Procedure at American University’s Washington College of Law. Further, as a trial judge, I have attended a number of State and national programs in this regard.

I have also seen, first-hand, the juveniles who have committed crimes and who have been brought to justice. When their crimes are not so serious, they are treated as juveniles and given second chances to mature. But when they commit serious crimes, current law in Maryland treats them as adults even at age 16 or 17. And if convicted, they face lengthy prison sentences, to be served with older adults. Such children often do not get a chance to mature and redeem themselves. This bill gives them a second chance by modifying their previously imposed life sentence for felony murder to a far more appropriate sentence of 30 or 40 years.

Finally, I must also point out that in my experience as a trial judge, it is tragic that a disproportionate share of these children are Black or Hispanic. This is so for many reasons that involve issues of systemic racial injustice. This bill also helps address this issue as well.

# **SB 395 - Prohibit Charging Juveniles for First Deg**

Uploaded by: Beach, Jacqueline

Position: FAV

Dear Members of the Judicial Proceedings Committee,

This testimony is being submitted by Showing Up for Racial Justice Baltimore, a group of individuals working to move white folks as part of a multi-racial movement for equity and racial justice in Baltimore City and Baltimore County. We are also working in collaboration with Out for Justice. I am a resident of MD District 41.. I am testifying in **support of Senate Bill 395**.



**Senate Bill 395**, which prohibits children from being charged with first degree murder in cases where someone incidentally dies in the commission of another felony crime and allows those previously charged with first-degree murder as juveniles in cases like these to have their sentence reduced.

In *State v. Allen*, the Court of Appeals of Maryland held that the felony-murder rule is a legal fiction in which the intent and malice to commit the underlying felony is transferred to elevate an unintentional killing to first degree murder. This holding, as reflected in our current state statutes, does not exclude children from being convicted of first-degree murder under this legal fiction, regardless of actual culpability. The reasoning behind this holding is held in proximate cause theory, which holds defendants accountable for any deaths that should have been “foreseeable” during the crime. The Supreme Court and statistical data on adolescent behavior have reaffirmed that severe convictions against juvenile offenders is not only unconstitutional but strengthens the racially charged “school to prison” pipeline cycle.

The Supreme Court has recognized repeatedly that children and adolescents are the most susceptible to be swept into the current of criminal behavior and taking away the opportunity for reform by enacting the most severe convictions, regardless of intent, violates the 8th Amendment which prohibits cruel and unusual punishments. In *Roper v Simmons*, the Court reasoned in their ruling that “immaturity diminishes [child offenders’] culpability, as does their susceptibility to outside pressures and influences”. The majority backed their rationale of this holding with the use of scientific evidence that the underdevelopment of neurological synapses within an adolescent’s mind affects decision making and consequential rationalization that does not allow an adolescent to be culpable to the same degree that an adult would in the same crime. The Supreme Court supported their underlying rationale of *Roper v Simmons* with *Graham v Florida* and *Miller v Alabama*. In both cases, the Court affirmed their view that children have the indistinguishable characteristic of future reform and therefore juvenile offenders should be barred from the most severe convictions. In the specific instance of transferred intent against minors, which Senate Bill 395 looks to address, Justice Breyer directly answers that question in his concurring opinion in *Miller v Alabama*, where he states, “transferred intent is not sufficient to satisfy the intent to murder [and] the ability to consider the full consequences of a course of action and to adjust one’s conduct accordingly is precisely what we know juveniles lack capacity to do effectively”. If the Supreme Court of the United States has held in multiple cases that children are to be completely absolved from the most severe convictions because it violates the constitutional fundamentals of justice, why has Maryland continued to hold juveniles guilty in cases where direct culpability is deficient or completely absent?

As mentioned above, the Supreme Court relied on scientific evidence to support their holdings. Without enacting SB 395, juveniles involved in criminal pursuits can be convicted of first-degree murder, even if they were not the direct actor of the murder. This allows adolescents to be exceptionally vulnerable to the most severe punishments as juveniles tend to commit crimes in groups due to peer pressure. The National Crime Victimization Survey states that close to 40 percent of crimes committed by people ages 12 to 20 have multiple perpetrators, compared with only 5 percent for adults 30 and older. And, according to the American Psychological Association, it has been shown that due to underdeveloped prefrontal cortexes, the presence of peers increases adolescent risk taking because of heightened sensitivity to the potential reward value of risk taking in comparison to adults making similar decisions. To continue to allow children to be convicted of first-degree murder under section a(4) of § 2-201, or cases involving “transferred intent”, is to wrongfully exploit the biological callowness of adolescents to fuel the prison industrial complex.

Finally, without adopting SB395, the criminal justice system will continue to be a predatory vehicle for racial prejudice and injustice. Allowing the conviction of first-degree murder under “transferred intent” for children will disproportionately affect POC communities. According to [childrensdefense.org](http://childrensdefense.org), 67% of children in the juvenile justice system were children of color and black youth represented 54% of youth prosecuted in adult criminal court.

The most notable example of the injustice that is caused by murder felony statutes is the story of Curtis Brooks, a Maryland resident, who was charged with murder at the age of 15. Throughout his adolescence, Brooks struggled to maintain a consistent home and was in search of stability when he left Maryland to reunite with his mother in Colorado. Brooks' mother was battling drug addiction at the time and Brooks soon found himself displaced and finding refuge on garage floors to avoid sleeping on the streets. In an attempt to escape a blizzard, Brooks wandered an arcade and was approached by a group of teenagers who had previously allowed him to sleep on their couch. Feeling a kindred obligation to the group, Brooks agreed to help steal a car in which he would be directed to fire a distraction shot in the air. During the attempted carjacking, it was not Brooks who fired the shot that resulted in murder, but his accomplice who killed the victim. Due to a felony murder statute, the court found that, Brooks, at the age of 15, was convicted of first-degree murder and life in prison, despite having no previous criminal record and not firing the bullet that directly resulted in the murder.



Brooks remained in prison until Joanne C Benson, Brooks' previous elementary school principal, and Abdul Raheem Abdullah, President of Prince George's County Education Coalition, used their personal finances to travel to Colorado and advocate for legislative change. At age 40, Brooks returned to his home of Maryland for the first time in 25 years and is able to enjoy the first steps of freedom. Unfortunately, many children are not as fortunate as Brooks and remain in the prison system under a wrongful conviction. According to Human Rights Watch and Amnesty International, 45 out of 172 of youth offenders surveyed were serving life sentences without parole after being convicted of felony murder.

These children deserve to know freedom, they deserve the chance to reform.

The adoption of Senate Bill 395 will bar wrongful severe sanctions against our youth and allow for the progression we all wish to see in our justice system. I ask the General Assembly to **please adopt Senate Bill 395** which addresses felony murder and enacts limitation provisions and review of convictions for children.

Best,  
Jacqueline Beach  
2366 Sundew Terrace  
Baltimore, MD 21209  
Showing Up for Racial Justice Baltimore

**Citations:**

- <https://www.marylandmatters.org/2019/07/09/lawmakers-welcome-home-man-sentenced-to-life-as-a-teen/>
- <https://www.distractify.com/p/curtis-brooks-kids-behind-bars>
- [https://theappeal.org/curtis-brooks-felony-murder-life-sentence/?fbclid=IwAR3-zHHXCmQPn066v4nsvsi56rSIC4CbZS4Hn8jL\\_BtENfqZRY92S1tZBUMU#.XRmAjr5oFG.twitter](https://theappeal.org/curtis-brooks-felony-murder-life-sentence/?fbclid=IwAR3-zHHXCmQPn066v4nsvsi56rSIC4CbZS4Hn8jL_BtENfqZRY92S1tZBUMU#.XRmAjr5oFG.twitter)

# **REC Testimony in Support of SB 395.pdf**

Uploaded by: Bickelman, Kirsten

Position: FAV

**Testimony in SUPPORT OF SB 395 – No Felony Murder for Children**

*Submitted by*

**The Re-Entry Clinic, American University Washington College of Law**

The **Re-Entry Clinic at the American University Washington College of Law** represents child offenders serving life sentences in Maryland prisons. We have represented and know of child offenders sentenced to life in prison as a result of felony murder convictions. Felony murder has been described by legal scholars as “an unsightly wart on the skin of criminal law”<sup>1</sup> that has “no logical or practical basis for existence” in modern jurisprudence.<sup>2</sup> However weak its underlying principles, felony murder is even more tenuous as applied to child offenders. For this reason, we SUPPORT passage of SB 395 and urge you to vote in favor of its passage.

Felony murder allows individuals who have committed a felony to be convicted of murder without requiring the prosecution to prove the mens rea element necessary for a murder conviction.<sup>3</sup> For example, under the felony murder rule, one who commits or attempts to commit a crime like arson or burglary can nonetheless be convicted of first-degree murder. Allowing one to stand convicted of the most serious crime in our criminal justice system without so much as a mention of the individual’s intent to kill runs counter to fundamental principles of American jurisprudence.<sup>4</sup>

---

<sup>1</sup> Packer, *Criminal Code Revision*, 23 U. TORONTO LJ. 1, 4 (1973).

<sup>2</sup> Moreland, *Kentucky Homicide Law With Recommendations*, 51 KY. LJ. 59, 82 (1962).

<sup>3</sup> [Legal Information Institute](https://www.law.cornell.edu/wex/mens_rea), Cornell L. School, [https://www.law.cornell.edu/wex/mens\\_rea](https://www.law.cornell.edu/wex/mens_rea) (mens rea refers to criminal intent).

<sup>4</sup> *United States v. Freed*, 401 U.S. 601, 613 (1971) (“The existence of a mens rea element is the rule of, rather than the exception to, the principles of Anglo-American criminal jurisprudence.”); *Morissette v. United States*, 342 U.S. 246, 250-51 (1952) (“The contention that an injury can amount to a crime only when inflicted by intention is no provincial or transient notion. It is as universal and persistent in mature systems of law as belief in freedom of the human will . . .”).

Felony murder is a legal fiction. First-degree homicide is the deliberate, premeditated, and willful killing of an individual, which carries a mandatory life sentence in Maryland.<sup>5</sup> Barn-burning, carjacking, and prison escape are not first-degree murder, and neither are the nine other enumerated felonies in Maryland's first-degree murder statute.<sup>6</sup>

Maryland's application of the felony murder rule allows for one to be convicted of first-degree murder and sentenced to life in prison so long as the death resulting from commission of the felony was "reasonably foreseeable." This means that if during the felony's commission Defendant A's co-defendant causes the death of another, Defendant A, even without knowledge of his co-defendant's actions, could be convicted of first-degree murder. Even more extenuated, both defendants could be convicted of first-degree murder when an unrelated third-party, who bears no relation to the perpetrators, does the killing.<sup>7</sup>

Though the felony murder doctrine in and of itself is at a constitutional crossroads, its application to children is even more indefensible. Maryland's first-degree murder statute is inconsistent with the U.S. Supreme Court's own precedent regarding child offenders. Relying on the Eighth Amendment's prohibition of cruel and unusual punishment, in *Roper v. Simmons*,<sup>8</sup> *Graham v. Florida*,<sup>9</sup> and *Miller v. Alabama*,<sup>10</sup> the Court unequivocally declared that developmental difference

---

<sup>5</sup> Md. Code Ann., Crim. Law § 2-201(providing that a murder is in the first degree if it is committed in the perpetration of or an attempt to perpetrate arson, barn-burning, burglary, carjacking, prison escape, kidnapping, mayhem, rape, robbery, sexual offense, sodomy, or manufacture or possession of a destructive device).

<sup>6</sup> *Id.* (requiring a sentence of imprisonment for life without parole or imprisonment for life).

<sup>7</sup> *Jackson v. State*, 286 Md. 430 (1979) (convicting defendants of first-degree murder even though a responding police officer, rather than either of the perpetrators of the felony, fired the fatal shot that killed a bystander).

<sup>8</sup> 543 U.S. 551 (2005).

<sup>9</sup> 560 U.S. 48 (2010).

<sup>10</sup> 567 U.S. 460 (2012).



must be considered when sentencing child offenders to harsh terms of imprisonment like the ones associated with felony murder.<sup>11</sup>

Justice Breyer, joined by Justice Sotomayor concurring in *Miller v. Alabama*, spoke directly to felony murder as applied to children. The Justices declared that felony murder's reliance on "transferred intent" ". . . is not sufficient to satisfy the intent to murder that could subject a juvenile to a sentence of life without parole."<sup>12</sup> The Justices further emphasized that ". . . the ability to consider the full consequences of a course of action and to adjust one's conduct accordingly is precisely what we know juveniles lack capacity to do effectively . . ."<sup>13</sup>

The United States remains virtually the only western country that still recognizes a legal principle that makes it possible "that the most serious sanctions known to law might be imposed for *accidental* homicide."<sup>14</sup> In Maryland, this widely discarded doctrine is wholly applicable to child offenders. Even though it is important to continue to work to eradicate the myriad of injustices that result from such a doctrine, removing first-degree murder for children under a felony murder theory would represent a crucial step towards reaffirming the State's commitment to justice. The Bill's provisions for resentencing child offenders currently serving life sentences under felony murder convictions is another important expression of that commitment.

For these reasons, we urge you to PASS SB 395.

---

<sup>11</sup> Linda M. B. Uttal & David H. Uttal, *Children Are Not Little Adults: Developmental Differences and the Juvenile Justice System*, LOYOLA PUBLIC INTEREST LAW REPORTER NO. 3, Summer 2010 (urging that children are not, and cannot be treated as, "little adults").

<sup>12</sup> *Miller*, 567 U.S. at 490.

<sup>13</sup> *Id.*

<sup>14</sup> Jeffries & Stephan, *Defenses, Presumptions, and Burden of Proof in the Criminal Law*, 88 YALE LJ. 1325, 1383 (1979).

**Testimony\_JPC\_SB0395.pdf**

Uploaded by: Carter, Jill

Position: FAV



THE SENATE OF MARYLAND  
ANNAPOLIS, MARYLAND 21401

**Testimony of Senator Jill P. Carter  
In Favor of SB0395 - Criminal Law – Felony Murder –  
Limitation and Review of Convictions for Children  
Before the Judicial Proceedings Committee  
on February 11, 2021**

**Mr. Chairman, Vice Chair, and Members of the Committee:**

**Senate Bill 395 will end the practice of charging juveniles with felony murder in Maryland. Under our current law, a juvenile can be convicted of first-degree murder even if they did not actually kill the victim or intend to commit a murder due to the felony murder doctrine. Unlike pre-meditated first-degree murder, the State is not required to prove intent to commit a murder in order to obtain a conviction for felony murder. Instead, the State need only prove that the juvenile was participating in a felony when a loss of life occurs. The mandatory sentence for a first-degree murder is a life sentence. The intention of this bill is to prevent the State from being able to seek a felony murder conviction against a juvenile and to end the practice of sentencing juveniles to life in prison for murders they have not actually committed.**

**The Supreme Court has recognized that children should be treated differently than adults in our criminal justice system for the purpose of sentencing in a series of recent decisions. In *Roper v. Simmons*, the Supreme Court abolished the death penalty for juveniles based on the 8th & 14th**

**Amendments.**The Court banned mandatory life without the possibility of parole sentences for juveniles convicted of non-homicide crimes in *Graham v. Florida*. In *Miller v. Alabama*, the Court extended its holding in *Graham* and held that mandatory life without the possibility of parole sentences in homicide cases against juveniles are cruel and unusual under the 8th Amendment.

In all 3 cases, the Court based its decisions on cognitive science research from physicians and neuroscientists that conclusively demonstrates that the brain continues to develop well into a person's mid-20s, and the frontal cortex, which controls for risk and impulse control, is among the last parts to develop. This makes juveniles more likely to succumb to peer pressure and take uncalculated risks. Because the brain is still developing for these juvenile offenders, the Court recognized that juveniles have a decreased culpability for such offenses because they are not able to completely grasp the severity of such crimes.

Charging juveniles with felony murder is inconsistent with the Supreme Court's rulings on juvenile sentencing. Proponents of the felony murder doctrine argue that it is an important deterrent. They claim that if individuals know that participation in an inherently dangerous felony could lead to culpability for a murder, even one that he or she does not commit, they are less likely to commit the underlying felony.

Assuming the doctrine really does hold some deterrent value, because juveniles are less able to anticipate risks and weigh their consequences, whatever deterrent effect the felony murder doctrine may have is lost on juveniles. Experts on brain development note that juveniles are still developing their brains, and that persons under the age of 18 haven't fully developed appreciation for consequences, long-term

**planning, and cost-benefit analyses. These are all pivotal aspects of the brain and cognitive function that would impact an individual's thought process and planning considerations in potentially acting on a felony. For these reasons, juveniles cannot fully appreciate the potential long-term consequences of engaging in a felony, especially in predicting a loss of life they are not anticipating as a result of that felony.**

**Additionally, felony murder rules are largely obscure, unknown to many people, especially juveniles with little knowledge of more obscure criminal laws and the legal system. Between the still-developing brain and the lack of knowledge of felony murder laws, there is little deterrent benefit that the felony murder rule can even have for juveniles who are convicted of felonies.**

**Because felony murder is charged under the first degree murder statute, it is unclear how many juveniles are serving a life sentence for a felony murder conviction. There are over 300 juveniles serving life sentences in Maryland. It is likely that a sizable portion of those individuals are serving sentences for a felony murder conviction.**

**Additionally, a recent analysis of Maryland's correctional population found that our system is rife with racial disparities. 80 percent of individuals serving sentences of 10 years or more are young Black men, as are the vast majority of our state's juvenile lifers.**

**Abolishing the felony murder doctrine for juveniles outright is an important step towards addressing our state's system of mass incarceration. That said, we cannot ignore the racial disparities that already exist. For that reason, Senate Bill 395 also provides retroactive relief for those already serving life**

**sentences for a felony murder conviction when they were juveniles.**

**Defendants who can demonstrate that they are serving a life sentence for a felony murder conviction from an offense when they were still juveniles can petition the court for a resentencing that is not to exceed the penalty in place for second degree murder at the time of the offense- either 30 or 40 years. This approach will allow the State to maintain its conviction, avoiding costly and difficult litigation, while providing those sentenced to life as juveniles for felony murder the hope and real possibility of one day rejoining their communities.**

**Abolishing felony murder for juveniles is consistent with emerging trends in 8th Amendment jurisprudence, and will bring Maryland in line with other states who have recognized the injustice of the doctrine applying to juveniles, including Michigan, Ohio, California, and Illinois.**

**Senate Bill 395 is about accountability and proportionality. Juveniles will still be held accountable for the crimes that they commit, can still be charged as adults, and in appropriate cases where there is evidence that a juvenile played a direct role in the murder of another person, can be charged with first-degree pre-meditated murder, second degree murder, or conspiracy. In all other cases, juveniles will still be liable for the underlying felonies that they have committed.**

**Senate Bill 395 is about holding juveniles accountable for what they have done and will end the practice of sentencing them to life in prison for what they have not done. I urge you to support this important step towards a more just system for children in Maryland.**

**For these reasons, I urge a favorable report for Senate Bill 395.**

**Respectfully,**

A handwritten signature in blue ink that reads "Jill P. Carter". The signature is written in a cursive, flowing style.

**Jill P. Carter**

**SB395\_LatinoCaucus\_FAV.pdf**

Uploaded by: Caucus, MD Latino

Position: FAV





## MARYLAND LEGISLATIVE LATINO CAUCUS

Lowe House Office Building, 6 Bladen Street, Room 200 · Annapolis, Maryland 21401  
Phone 410-841-3374 | 301-858-3374 · 800-492-7122 Ext. 3374 · Fax 410-841-3342 | 301-858-3342  
latino.caucus@house.state.md.us · www.mldlatinocaucus.org

DAVID FRASER-HIDALGO, CHAIR  
JOSELINE A. PEÑA-MELNYK, VICE-CHAIR  
GABRIEL ACEVERO, TREASURER  
JESSE T. PIPPY, SECRETARY  
CESIAH FUENTES, EXECUTIVE DIRECTOR

### MEMBERS

ALFRED CARR  
ALONZO WASHINGTON  
ANNE HEALEY  
ARIANA B. KELLY  
BEN BARNES  
BENJAMIN KRAMER  
BONNIE CULLISON  
BROOKE LIERMAN  
CAROL L. KRIMM  
CHARLOTTE CRUTCHFIELD  
CHERYL KAGAN  
CRAIG ZUCKER  
DAVID MOON  
DIANA FENNEL  
EMILY SHETTY  
EREK BARRON  
ERIC LUEDTKE  
GERALDINE VALENTINO-SMITH  
GUY GUZZONE  
HEATHER BAGNALL  
J. SANDY BARTLETT  
JAMES ROSAPEPE  
JARED SOLOMON  
JAZZ LEWIS  
JEFF WALDSTREICHER  
JEN TERRASA  
JESSICA FELDMARK  
JHEANELLE WILKINS  
JILL P. CARTER  
JIM GILCHRIST  
JULIAN IVEY  
JULIE PALAKOVICH CARR  
KAREN LEWIS YOUNG  
KEN KERR  
LESLEY LOPEZ  
LILY QI  
LISA BELCASTRO  
LORIG CHARKOUDIAN  
MAGGIE MCINTOSH  
MALCOLM AUGUSTINE  
MARC KORMAN  
MARY A. LEHMAN  
MARY WASHINGTON  
MELISSA WELLS  
MIKE ROGERS  
NICOLE WILLIAMS  
PAMELA BEIDLE  
PAMELA QUEEN  
REGINA T. BOYCE  
ROBBYN LEWIS  
SHANE PENDERGRASS  
SHANEKA HENSON  
SHEILA RUTH  
SHELLY HETTLEMAN  
STEPHANIE SMITH  
SUSAN C. LEE  
TERRI HILL  
VAUGHN STEWART  
WANIKA FISHER  
WILL SMITH

TO: Senator William C. Smith Jr, Chair  
Senator Jeff Waldstreicher, Vice Chair  
Judicial Proceedings Committee Members

FROM: Maryland Legislative Latino Caucus (MLLC)

DATE: February 11, 2021

RE: SB395 Criminal Law - Felony Murder - Limitation and Review of Convictions for Children

### **The MLLC supports SB395 Criminal Law - Felony Murder - Limitation and Review of Convictions for Children.**

The MLLC is a bipartisan group of Senators and Delegates committed to supporting legislation that improves the lives of Latinos throughout our state. The MLLC is a crucial voice in the development of public policy that uplifts the Latino community and benefits the state of Maryland. Thank you for allowing us the opportunity to express our support of SB395.

Serious criminal reform is necessary to repair the damages of mass incarceration of people of color and impoverished individuals. A [2018 Sentencing Project study](#) reports that Black Americans are nearly 6 times as likely and Latinos are 3.1 times as likely to be imprisoned than whites. These racial/ethnic disparities also affect our youth. One in every three Black boys could expect to go to prison, as could one in every six Latinos, compared to one of every seventeen white boys. Black and Latino youth are [overrepresented](#) in every part of the juvenile justice system and receive harsher punishments for the same offenses as their white peers. Our justice system disproportionately discriminates against our Black and Latino young people and these oppressive practices harm communities of color for generations.

Under current Maryland law, children, individuals under 18 years old, can be convicted of first-degree felony murder, and as a result can be given a life sentence. However, felony murder does not require the intent to kill, meaning children who are involved in another criminal activity that goes awry because of someone else, are charged with first-degree murder.

SB395 ensures that children can no longer be convicted of a first-degree murder. This bill also provides those incarcerated individuals who were children at the time of their conviction the possibility of having their convictions reviewed and given a lessened sentence. In keeping our commitment to our disadvantaged communities, we advocate for the State to take the proper measures to end the systematic incarceration of our youth.

The MLLC supports this bill and urges a favorable report on SB395.

# **SB 395 - Prohibit Charging Juveniles for First Deg**

Uploaded by: Chan, Sam

Position: FAV

Dear Members of the Judicial Proceedings Committee,

This testimony is being submitted by Showing Up for Racial Justice Baltimore, a group of individuals working to move white folks as part of a multi-racial movement for equity and racial justice in Baltimore City and Baltimore County. We are also working in collaboration with Out for Justice. I am a resident of MD District 45. I am testifying in **support of Senate Bill 395**.



**Senate Bill 395**, which prohibits children from being charged with first degree murder in cases where someone incidentally dies in the commission of another felony crime and allows those previously charged with first-degree murder as juveniles in cases like these to have their sentence reduced.

In *State v. Allen*, the Court of Appeals of Maryland held that the felony-murder rule is a legal fiction in which the intent and malice to commit the underlying felony is transferred to elevate an unintentional killing to first degree murder. This holding, as reflected in our current state statutes, does not exclude children from being convicted of first-degree murder under this legal fiction, regardless of actual culpability. The reasoning behind this holding is held in proximate cause theory, which holds defendants accountable for any deaths that should have been “foreseeable” during the crime. The Supreme Court and statistical data on adolescent behavior have reaffirmed that severe convictions against juvenile offenders is not only unconstitutional but strengthens the racially charged “school to prison” pipeline cycle.

The Supreme Court has recognized repeatedly that children and adolescents are the most susceptible to be swept into the current of criminal behavior and taking away the opportunity for reform by enacting the most severe convictions, regardless of intent, violates the 8th Amendment which prohibits cruel and unusual punishments. In *Roper v Simmons*, the Court reasoned in their ruling that “immaturity diminishes [child offenders’] culpability, as does their susceptibility to outside pressures and influences”. The majority backed their rationale of this holding with the use of scientific evidence that the underdevelopment of neurological synapses within an adolescent’s mind affects decision making and consequential rationalization that does not allow an adolescent to be culpable to the same degree that an adult would in the same crime. The Supreme Court supported their underlying rationale of *Roper v Simmons* with *Graham v Florida* and *Miller v Alabama*. In both cases, the Court affirmed their view that children have the indistinguishable characteristic of future reform and therefore juvenile offenders should be barred from the most severe convictions. In the specific instance of transferred intent against minors, which Senate Bill 395 looks to address, Justice Breyer directly answers that question in his concurring opinion in *Miller v Alabama*, where he states, “transferred intent is not sufficient to satisfy the intent to murder [and] the ability to consider the full consequences of a course of action and to adjust one’s conduct accordingly is precisely what we know juveniles lack capacity to do effectively”. If the Supreme Court of the United States has held in multiple cases that children are to be completely absolved from the most severe convictions because it violates the constitutional fundamentals of justice, why has Maryland continued to hold juveniles guilty in cases where direct culpability is deficient or completely absent?

As mentioned above, the Supreme Court relied on scientific evidence to support their holdings. Without enacting SB 395, juveniles involved in criminal pursuits can be convicted of first-degree murder, even if they were not the direct actor of the murder. This allows adolescents to be exceptionally vulnerable to the most severe punishments as juveniles tend to commit crimes in groups due to peer pressure. The National Crime Victimization Survey states that close to 40 percent of crimes committed by people ages 12 to 20 have multiple perpetrators, compared with only 5 percent for adults 30 and older. And, according to the American Psychological Association, it has been shown that due to underdeveloped prefrontal cortexes, the presence of peers increases adolescent risk taking because of heightened sensitivity to the potential reward value of risk taking in comparison to adults making similar decisions. To continue to allow children to be convicted of first-degree murder under section a(4) of § 2-201, or cases involving “transferred intent”, is to wrongfully exploit the biological callowness of adolescents to fuel the prison industrial complex.

Finally, without adopting SB395, the criminal justice system will continue to be a predatory vehicle for racial prejudice and injustice. Allowing the conviction of first-degree murder under “transferred intent” for children will disproportionately affect POC communities. According to [childrensdefense.org](http://childrensdefense.org), 67% of children in the juvenile justice system were children of color and black youth represented 54% of youth prosecuted in adult criminal court.



The most notable example of the injustice that is caused by murder felony statutes is the story of Curtis Brooks, a Maryland resident, who was charged with murder at the age of 15. Throughout his adolescence, Brooks struggled to maintain a consistent home and was in search of stability when he left Maryland to reunite with his mother in Colorado. Brooks' mother was battling drug addiction at the time and Brooks soon found himself displaced and finding refuge on garage floors to avoid sleeping on the streets. In an attempt to escape a blizzard, Brooks wandered an arcade and was approached by a group of teenagers who had previously allowed him to sleep on their couch. Feeling a kindred obligation to the group, Brooks agreed to help steal a car in which he would be directed to fire a distraction shot in the air. During the attempted carjacking, it was not Brooks who fired the shot that resulted in murder, but his accomplice who killed the victim. Due to a felony murder statute, the court found that, Brooks, at the age of 15, was convicted of first-degree murder and life in prison, despite having no previous criminal record and not firing the bullet that directly resulted in the murder.

Brooks remained in prison until Joanne C Benson, Brooks' previous elementary school principal, and Abdul Raheem Abdullah, President of Prince George's County Education Coalition, used their personal finances to travel to Colorado and advocate for legislative change. At age 40, Brooks returned to his home of Maryland for the first time in 25 years and is able to enjoy the first steps of freedom. Unfortunately, many children are not as fortunate as Brooks and remain in the prison system under a wrongful conviction. According to Human Rights Watch and Amnesty International, 45 out of 172 of youth offenders surveyed were serving life sentences without parole after being convicted of felony murder.

These children deserve to know freedom, they deserve the chance to reform.

The adoption of Senate Bill 395 will bar wrongful severe sanctions against our youth and allow for the progression we all wish to see in our justice system. I ask the General Assembly to **please adopt Senate Bill 395** which addresses felony murder and enacts limitation provisions and review of convictions for children.

Best,  
Sam Chan  
207 E. Preston St. Apt 3A  
Baltimore MD 21202  
Showing Up for Racial Justice Baltimore

**Citations:**

- <https://www.marylandmatters.org/2019/07/09/lawmakers-welcome-home-man-sentenced-to-life-as-a-teen/>
- <https://www.distractify.com/p/curtis-brooks-kids-behind-bars>
- <https://theappeal.org/curtis-brooks-felony-murder-life-sentence/?fbclid=IwAR3-zHHXCmQPn066v4nsvsi56rSIC4CbZS4Hn8jLBtENfqZRY92S1tZBUMU#.XRmAjr5oFG.twitter>

# **SB 395 - Prohibit Charging Juveniles for First Deg**

Uploaded by: Dwyer, Maura

Position: FAV

Dear Members of the Judicial Proceedings Committee,

This testimony is being submitted by Showing Up for Racial Justice Baltimore, a group of individuals working to move white folks as part of a multi-racial movement for equity and racial justice in Baltimore City and Baltimore County. We are also working in collaboration with Out for Justice. I am a resident of MD District 40. I am testifying in **support of Senate Bill 395**.



**Senate Bill 395**, which prohibits children from being charged with first degree murder in cases where someone incidentally dies in the commission of another felony crime and allows those previously charged with first-degree murder as juveniles in cases like these to have their sentence reduced.

In *State v. Allen*, the Court of Appeals of Maryland held that the felony-murder rule is a legal fiction in which the intent and malice to commit the underlying felony is transferred to elevate an unintentional killing to first degree murder. This holding, as reflected in our current state statutes, does not exclude children from being convicted of first-degree murder under this legal fiction, regardless of actual culpability. The reasoning behind this holding is held in proximate cause theory, which holds defendants accountable for any deaths that should have been “foreseeable” during the crime. The Supreme Court and statistical data on adolescent behavior have reaffirmed that severe convictions against juvenile offenders is not only unconstitutional but strengthens the racially charged “school to prison” pipeline cycle.

The Supreme Court has recognized repeatedly that children and adolescents are the most susceptible to be swept into the current of criminal behavior and taking away the opportunity for reform by enacting the most severe convictions, regardless of intent, violates the 8th Amendment which prohibits cruel and unusual punishments. In *Roper v Simmons*, the Court reasoned in their ruling that “immaturity diminishes [child offenders’] culpability, as does their susceptibility to outside pressures and influences”. The majority backed their rationale of this holding with the use of scientific evidence that the underdevelopment of neurological synapses within an adolescent’s mind affects decision making and consequential rationalization that does not allow an adolescent to be culpable to the same degree that an adult would in the same crime. The Supreme Court supported their underlying rationale of *Roper v Simmons* with *Graham v Florida* and *Miller v Alabama*. In both cases, the Court affirmed their view that children have the indistinguishable characteristic of future reform and therefore juvenile offenders should be barred from the most severe convictions. In the specific instance of transferred intent against minors, which Senate Bill 395 looks to address, Justice Breyer directly answers that question in his concurring opinion in *Miller v Alabama*, where he states, “transferred intent is not sufficient to satisfy the intent to murder [and] the ability to consider the full consequences of a course of action and to adjust one’s conduct accordingly is precisely what we know juveniles lack capacity to do effectively”. If the Supreme Court of the United States has held in multiple cases that children are to be completely absolved from the most severe convictions because it violates the constitutional fundamentals of justice, why has Maryland continued to hold juveniles guilty in cases where direct culpability is deficient or completely absent?

As mentioned above, the Supreme Court relied on scientific evidence to support their holdings. Without enacting SB 395, juveniles involved in criminal pursuits can be convicted of first-degree murder, even if they were not the direct actor of the murder. This allows adolescents to be exceptionally vulnerable to the most severe punishments as juveniles tend to commit crimes in groups due to peer pressure. The National Crime Victimization Survey states that close to 40 percent of crimes committed by people ages 12 to 20 have multiple perpetrators, compared with only 5 percent for adults 30 and older. And, according to the American Psychological Association, it has been shown that due to underdeveloped prefrontal cortexes, the presence of peers increases adolescent risk taking because of heightened sensitivity to the potential reward value of risk taking in comparison to adults making similar decisions. To continue to allow children to be convicted of first-degree murder under section a(4) of § 2-201, or cases involving “transferred intent”, is to wrongfully exploit the biological callowness of adolescents to fuel the prison industrial complex.

Finally, without adopting SB395, the criminal justice system will continue to be a predatory vehicle for racial prejudice and injustice. Allowing the conviction of first-degree murder under “transferred intent” for children will disproportionately affect POC communities. According to [childrensdefense.org](http://childrensdefense.org), 67% of children in the juvenile justice system were children of color and black youth represented 54% of youth prosecuted in adult criminal court.

The most notable example of the injustice that is caused by murder felony statutes is the story of Curtis Brooks, a Maryland resident, who was charged with murder at the age of 15. Throughout his adolescence, Brooks struggled to maintain a consistent home and was in search of stability when he left Maryland to reunite with his mother in Colorado.

Brooks' mother was battling drug addiction at the time and Brooks soon found himself displaced and finding refuge on garage floors to avoid sleeping on the streets. In an attempt to escape a blizzard, Brooks wandered an arcade and was approached by a group of teenagers who had previously allowed him to sleep on their couch. Feeling a kindred obligation to the group, Brooks agreed to help steal a car in which he would be directed to fire a distraction shot in the air. During the attempted carjacking, it was not Brooks who fired the shot that resulted in murder, but his accomplice who killed the victim. Due to a felony murder statute, the court found that, Brooks, at the age of 15, was convicted of first-degree murder and life in prison, despite having no previous criminal record and not firing the bullet that directly resulted in the murder.



Brooks remained in prison until Joanne C Benson, Brooks' previous elementary school principal, and Abdul Raheem Abdullah, President of Prince George's County Education Coalition, used their personal finances to travel to Colorado and advocate for legislative change. At age 40, Brooks returned to his home of Maryland for the first time in 25 years and is able to enjoy the first steps of freedom. Unfortunately, many children are not as fortunate as Brooks and remain in the prison system under a wrongful conviction. According to Human Rights Watch and Amnesty International, 45 out of 172 of youth offenders surveyed were serving life sentences without parole after being convicted of felony murder.

These children deserve to know freedom, they deserve the chance to reform.

The adoption of Senate Bill 395 will bar wrongful severe sanctions against our youth and allow for the progression we all wish to see in our justice system. I ask the General Assembly to **please adopt Senate Bill 395** which addresses felony murder and enacts limitation provisions and review of convictions for children.

Best,  
Maura Dwyer  
3908 Falls Rd  
Baltimore MD 21211  
Showing Up for Racial Justice Baltimore

**Citations:**

- <https://www.marylandmatters.org/2019/07/09/lawmakers-welcome-home-man-sentenced-to-life-as-a-teen/>
- <https://www.distractify.com/p/curtis-brooks-kids-behind-bars>
- <https://theappeal.org/curtis-brooks-felony-murder-life-sentence/?fbclid=IwAR3-zHHXCmQPn066v4nsvsi56rSIC4CbZS4Hn8jLBtENfqZRY92S1tZBUMU#.XRmAjr5oFG.twitter>

# **SB 395 - Prohibit Charging Juveniles for First Deg**

Uploaded by: Esposito, Lindsay

Position: FAV



Dear Members of the Judicial Proceedings Committee,

This testimony is being submitted by Showing Up for Racial Justice Baltimore, a group of individuals working to move white folks as part of a multi-racial movement for equity and racial justice in Baltimore City and Baltimore County. We are also working in collaboration with Out for Justice. I am a resident of MD District 45. I'm proud to have been a resident of Baltimore City since 2008 and a homeowner and voter in the Greenmount West neighborhood for the last 8 years. I am testifying in **support of Senate Bill 395**.



**Senate Bill 395**, which prohibits children from being charged with first degree murder in cases where someone incidentally dies in the commission of another felony crime and allows those previously charged with first-degree murder as juveniles in cases like these to have their sentence reduced.

In *State v. Allen*, the Court of Appeals of Maryland held that the felony-murder rule is a legal fiction in which the intent and malice to commit the underlying felony is transferred to elevate an unintentional killing to first degree murder. This holding, as reflected in our current state statutes, does not exclude children from being convicted of first-degree murder under this legal fiction, regardless of actual culpability. The reasoning behind this holding is held in proximate cause theory, which holds defendants accountable for any deaths that should have been “foreseeable” during the crime. The Supreme Court and statistical data on adolescent behavior have reaffirmed that severe convictions against juvenile offenders is not only unconstitutional but strengthens the racially charged “school to prison” pipeline cycle.

The Supreme Court has recognized repeatedly that children and adolescents are the most susceptible to be swept into the current of criminal behavior and taking away the opportunity for reform by enacting the most severe convictions, regardless of intent, violates the 8th Amendment which prohibits cruel and unusual punishments. In *Roper v Simmons*, the Court reasoned in their ruling that “immaturity diminishes [child offenders’] culpability, as does their susceptibility to outside pressures and influences”. The majority backed their rationale of this holding with the use of scientific evidence that the underdevelopment of neurological synapses within an adolescent's mind affects decision making and consequential rationalization that does not allow an adolescent to be culpable to the same degree that an adult would in the same crime. The Supreme Court supported their underlying rationale of *Roper v Simmons* with *Graham v Florida* and *Miller v Alabama*. In both cases, the Court affirmed their view that children have the indistinguishable characteristic of future reform and therefore juvenile offenders should be barred from the most severe convictions. In the specific instance of transferred intent against minors, which Senate Bill 395 looks to address, Justice Breyer directly answers that question in his concurring opinion in *Miller v Alabama*, where he states, “transferred intent is not sufficient to satisfy the intent to murder [and] the ability to consider the full consequences of a course of action and to adjust one’s conduct accordingly is precisely what we know juveniles lack capacity to do effectively”. If the Supreme Court of the United States has held in multiple cases that children are to be completely absolved from the most severe convictions because it violates the constitutional fundamentals of justice, why has Maryland continued to hold juveniles guilty in cases where direct culpability is deficient or completely absent?

As mentioned above, the Supreme Court relied on scientific evidence to support their holdings. Without enacting SB 395, juveniles involved in criminal pursuits can be convicted of first-degree murder, even if they were not the direct actor of the murder. This allows adolescents to be exceptionally vulnerable to the most severe punishments as juveniles tend to commit crimes in groups due to peer pressure. The National Crime Victimization Survey states that close to 40 percent of crimes committed by people ages 12 to 20 have multiple perpetrators, compared with only 5 percent for adults 30 and older. And, according to the American Psychological Association, it has been shown that due to underdeveloped prefrontal cortexes, the presence of peers increases adolescent risk taking because of heightened sensitivity to the potential reward value of risk taking in comparison to adults making similar decisions. To continue to allow children to be convicted of first-degree murder under section a(4) of § 2-201, or cases involving “transferred intent”, is to wrongfully exploit the biological callowness of adolescents to fuel the prison industrial complex.

Finally, without adopting SB395, the criminal justice system will continue to be a predatory vehicle for racial prejudice and injustice. Allowing the conviction of first-degree murder under “transferred intent” for children will disproportionately affect

POC communities. According to [childrensdefense.org](http://childrensdefense.org), 67% of children in the juvenile justice system were children of color and black youth represented 54% of youth prosecuted in adult criminal court.



The most notable example of the injustice that is caused by murder felony statutes is the story of Curtis Brooks, a Maryland resident, who was charged with murder at the age of 15. Throughout his adolescence, Brooks struggled to maintain a consistent home and was in search of stability when he left Maryland to reunite with his mother in Colorado. Brooks' mother was battling drug addiction at the time and Brooks soon found himself displaced and finding refuge on garage floors to avoid sleeping on the streets. In an attempt to escape a blizzard, Brooks wandered an arcade and was approached by a group of teenagers who had previously allowed him to sleep on their couch. Feeling a kindred obligation to the group, Brooks agreed to help steal a car in which he would be directed to fire a distraction shot in the air. During the attempted carjacking, it was not Brooks who fired the shot that resulted in murder, but his accomplice who killed the victim. Due to a felony murder statute, the court found that, Brooks, at the age of 15, was convicted of first-degree murder and life in prison, despite having no previous criminal record and not firing the bullet that directly resulted in the murder.

Brooks remained in prison until Joanne C Benson, Brooks' previous elementary school principal, and Abdul Raheem Abdullah, President of Prince George's County Education Coalition, used their personal finances to travel to Colorado and advocate for legislative change. At age 40, Brooks returned to his home of Maryland for the first time in 25 years and is able to enjoy the first steps of freedom. Unfortunately, many children are not as fortunate as Brooks and remain in the prison system under a wrongful conviction. According to Human Rights Watch and Amnesty International, 45 out of 172 of youth offenders surveyed were serving life sentences without parole after being convicted of felony murder.

These children deserve to know freedom, they deserve the chance to reform.

The adoption of Senate Bill 395 will bar wrongful severe sanctions against our youth and allow for the progression we all wish to see in our justice system. I ask the General Assembly to **please adopt Senate Bill 395** which addresses felony murder and enacts limitation provisions and review of convictions for children.

Best,  
Lindsay Esposito  
434 E Oliver St  
Baltimore, MD 21202  
Showing Up for Racial Justice Baltimore

**Citations:**

- <https://www.marylandmatters.org/2019/07/09/lawmakers-welcome-home-man-sentenced-to-life-as-a-teen/>
- <https://www.distractify.com/p/curtis-brooks-kids-behind-bars>
- <https://theappeal.org/curtis-brooks-felony-murder-life-sentence/?fbclid=IwAR3-zHHXCmQPn066v4nsvsi56rSIC4CbZS4Hn8jLBtENfqZRY92S1tZBUMU#.XRmAjr5oFG.twitter>

# **SB 395 - Prohibit Charging Juveniles for First Deg**

Uploaded by: Fertig, Benjamin

Position: FAV

Dear Members of the Judicial Proceedings Committee,

This testimony is being submitted by Showing Up for Racial Justice Baltimore, a group of individuals working to move white folks as part of a multi-racial movement for equity and racial justice in Baltimore City and Baltimore County. We are also working in collaboration with Out for Justice. I am a resident of MD District 11. I am testifying in **support of Senate Bill 395**.



**Senate Bill 395**, which prohibits children from being charged with first degree murder in cases where someone incidentally dies in the commission of another felony crime and allows those previously charged with first-degree murder as juveniles in cases like these to have their sentence reduced.

In *State v. Allen*, the Court of Appeals of Maryland held that the felony-murder rule is a legal fiction in which the intent and malice to commit the underlying felony is transferred to elevate an unintentional killing to first degree murder. This holding, as reflected in our current state statutes, does not exclude children from being convicted of first-degree murder under this legal fiction, regardless of actual culpability. The reasoning behind this holding is held in proximate cause theory, which holds defendants accountable for any deaths that should have been “foreseeable” during the crime. The Supreme Court and statistical data on adolescent behavior have reaffirmed that severe convictions against juvenile offenders is not only unconstitutional but strengthens the racially charged “school to prison” pipeline cycle.

The Supreme Court has recognized repeatedly that children and adolescents are the most susceptible to be swept into the current of criminal behavior and taking away the opportunity for reform by enacting the most severe convictions, regardless of intent, violates the 8th Amendment which prohibits cruel and unusual punishments. In *Roper v Simmons*, the Court reasoned in their ruling that “immaturity diminishes [child offenders’] culpability, as does their susceptibility to outside pressures and influences”. The majority backed their rationale of this holding with the use of scientific evidence that the underdevelopment of neurological synapses within an adolescent’s mind affects decision making and consequential rationalization that does not allow an adolescent to be culpable to the same degree that an adult would in the same crime. The Supreme Court supported their underlying rationale of *Roper v Simmons* with *Graham v Florida* and *Miller v Alabama*. In both cases, the Court affirmed their view that children have the indistinguishable characteristic of future reform and therefore juvenile offenders should be barred from the most severe convictions. In the specific instance of transferred intent against minors, which Senate Bill 395 looks to address, Justice Breyer directly answers that question in his concurring opinion in *Miller v Alabama*, where he states, “transferred intent is not sufficient to satisfy the intent to murder [and] the ability to consider the full consequences of a course of action and to adjust one’s conduct accordingly is precisely what we know juveniles lack capacity to do effectively”. If the Supreme Court of the United States has held in multiple cases that children are to be completely absolved from the most severe convictions because it violates the constitutional fundamentals of justice, why has Maryland continued to hold juveniles guilty in cases where direct culpability is deficient or completely absent?

As mentioned above, the Supreme Court relied on scientific evidence to support their holdings. Without enacting SB 395, juveniles involved in criminal pursuits can be convicted of first-degree murder, even if they were not the direct actor of the murder. This allows adolescents to be exceptionally vulnerable to the most severe punishments as juveniles tend to commit crimes in groups due to peer pressure. The National Crime Victimization Survey states that close to 40 percent of crimes committed by people ages 12 to 20 have multiple perpetrators, compared with only 5 percent for adults 30 and older. And, according to the American Psychological Association, it has been shown that due to underdeveloped prefrontal cortexes, the presence of peers increases adolescent risk taking because of heightened sensitivity to the potential reward value of risk taking in comparison to adults making similar decisions. To continue to allow children to be convicted of first-degree murder under section a(4) of § 2-201, or cases involving “transferred intent”, is to wrongfully exploit the biological callowness of adolescents to fuel the prison industrial complex.

Finally, without adopting SB395, the criminal justice system will continue to be a predatory vehicle for racial prejudice and injustice. Allowing the conviction of first-degree murder under “transferred intent” for children will disproportionately affect POC communities. According to [childrensdefense.org](http://childrensdefense.org), 67% of children in the juvenile justice system were children of color and black youth represented 54% of youth prosecuted in adult criminal court.

The most notable example of the injustice that is caused by murder felony statutes is the story of Curtis Brooks, a Maryland resident, who was charged with murder at the age of 15. Throughout his adolescence, Brooks struggled to maintain a consistent home and was in search of stability when he left Maryland to reunite with his mother in Colorado. Brooks' mother was battling drug addiction at the time and Brooks soon found himself displaced and finding refuge on garage floors to avoid sleeping on the streets. In an attempt to escape a blizzard, Brooks wandered an arcade and was approached by a group of teenagers who had previously allowed him to sleep on their couch. Feeling a kindred obligation to the group, Brooks agreed to help steal a car in which he would be directed to fire a distraction shot in the air. During the attempted carjacking, it was not Brooks who fired the shot that resulted in murder, but his accomplice who killed the victim. Due to a felony murder statute, the court found that, Brooks, at the age of 15, was convicted of first-degree murder and life in prison, despite having no previous criminal record and not firing the bullet that directly resulted in the murder.



Brooks remained in prison until Joanne C Benson, Brooks' previous elementary school principal, and Abdul Raheem Abdullah, President of Prince George's County Education Coalition, used their personal finances to travel to Colorado and advocate for legislative change. At age 40, Brooks returned to his home of Maryland for the first time in 25 years and is able to enjoy the first steps of freedom. Unfortunately, many children are not as fortunate as Brooks and remain in the prison system under a wrongful conviction. According to Human Rights Watch and Amnesty International, 45 out of 172 of youth offenders surveyed were serving life sentences without parole after being convicted of felony murder.

These children deserve to know freedom, they deserve the chance to reform.

The adoption of Senate Bill 395 will bar wrongful severe sanctions against our youth and allow for the progression we all wish to see in our justice system. I ask the General Assembly to **please adopt Senate Bill 395** which addresses felony murder and enacts limitation provisions and review of convictions for children.

Best,  
**Benjamin Fertig**  
**2722 Quarry Heights Way, Baltimore, MD 21209**  
Showing Up for Racial Justice Baltimore

**Citations:**

- <https://www.marylandmatters.org/2019/07/09/lawmakers-welcome-home-man-sentenced-to-life-as-a-teen/>
- <https://www.distractify.com/p/curtis-brooks-kids-behind-bars>
- <https://theappeal.org/curtis-brooks-felony-murder-life-sentence/?fbclid=IwAR3-zHHXCmQPn066v4nsvsi56rSIC4CbZS4Hn8jLBtENfqZRY92S1tZBUMU#.XRmAjrZ5oFG.twitter>

# **SB 395 - Prohibit Charging Juveniles for First Deg**

Uploaded by: Hauck, Barbara

Position: FAV

Dear Members of the Judicial Proceedings Committee,

This testimony is being submitted by Showing Up for Racial Justice Baltimore, a group of individuals working to move white folks as part of a multi-racial movement for equity and racial justice in Baltimore City and Baltimore County. We are also working in collaboration with Out for Justice. I am a resident of MD District 43. I am also a longtime member of Baltimore's vibrant theatre community, and the Artistic Director at the Fells Point Corner Theatre. I am testifying in **support of Senate Bill 395**.



**Senate Bill 395**, which prohibits children from being charged with first degree murder in cases where someone incidentally dies in the commission of another felony crime and allows those previously charged with first-degree murder as juveniles in cases like these to have their sentence reduced.

In *State v. Allen*, the Court of Appeals of Maryland held that the felony-murder rule is a legal fiction in which the intent and malice to commit the underlying felony is transferred to elevate an unintentional killing to first degree murder. This holding, as reflected in our current state statutes, does not exclude children from being convicted of first-degree murder under this legal fiction, regardless of actual culpability. The reasoning behind this holding is held in proximate cause theory, which holds defendants accountable for any deaths that should have been “foreseeable” during the crime. The Supreme Court and statistical data on adolescent behavior have reaffirmed that severe convictions against juvenile offenders is not only unconstitutional but strengthens the racially charged “school to prison” pipeline cycle.

The Supreme Court has recognized repeatedly that children and adolescents are the most susceptible to be swept into the current of criminal behavior and taking away the opportunity for reform by enacting the most severe convictions, regardless of intent, violates the 8th Amendment which prohibits cruel and unusual punishments. In *Roper v Simmons*, the Court reasoned in their ruling that “immaturity diminishes [child offenders’] culpability, as does their susceptibility to outside pressures and influences”. The majority backed their rationale of this holding with the use of scientific evidence that the underdevelopment of neurological synapses within an adolescent's mind affects decision making and consequential rationalization that does not allow an adolescent to be culpable to the same degree that an adult would in the same crime. The Supreme Court supported their underlying rationale of *Roper v Simmons* with *Graham v Florida* and *Miller v Alabama*. In both cases, the Court affirmed their view that children have the indistinguishable characteristic of future reform and therefore juvenile offenders should be barred from the most severe convictions. In the specific instance of transferred intent against minors, which Senate Bill 395 looks to address, Justice Breyer directly answers that question in his concurring opinion in *Miller v Alabama*, where he states, “transferred intent is not sufficient to satisfy the intent to murder [and] the ability to consider the full consequences of a course of action and to adjust one’s conduct accordingly is precisely what we know juveniles lack capacity to do effectively”. If the Supreme Court of the United States has held in multiple cases that children are to be completely absolved from the most severe convictions because it violates the constitutional fundamentals of justice, why has Maryland continued to hold juveniles guilty in cases where direct culpability is deficient or completely absent?

As mentioned above, the Supreme Court relied on scientific evidence to support their holdings. Without enacting SB 395, juveniles involved in criminal pursuits can be convicted of first-degree murder, even if they were not the direct actor of the murder. This allows adolescents to be exceptionally vulnerable to the most severe punishments as juveniles tend to commit crimes in groups due to peer pressure. The National Crime Victimization Survey states that close to 40 percent of crimes committed by people ages 12 to 20 have multiple perpetrators, compared with only 5 percent for adults 30 and older. And, according to the American Psychological Association, it has been shown that due to underdeveloped prefrontal cortexes, the presence of peers increases adolescent risk taking because of heightened sensitivity to the potential reward value of risk taking in comparison to adults making similar decisions. To continue to allow children to be convicted of first-degree murder under section a(4) of § 2-201, or cases involving “transferred intent”, is to wrongfully exploit the biological callowness of adolescents to fuel the prison industrial complex.

Finally, without adopting SB395, the criminal justice system will continue to be a predatory vehicle for racial prejudice and injustice. Allowing the conviction of first-degree murder under “transferred intent” for children will disproportionately affect

POC communities. According to [childrensdefense.org](http://childrensdefense.org), 67% of children in the juvenile justice system were children of color and black youth represented 54% of youth prosecuted in adult criminal court.



The most notable example of the injustice that is caused by murder felony statutes is the story of Curtis Brooks, a Maryland resident, who was charged with murder at the age of 15. Throughout his adolescence, Brooks struggled to maintain a consistent home and was in search of stability when he left Maryland to reunite with his mother in Colorado. Brooks' mother was battling drug addiction at the time and Brooks soon found himself displaced and finding refuge on garage floors to avoid sleeping on the streets. In an attempt to escape a blizzard, Brooks wandered an arcade and was approached by a group of teenagers who had previously allowed him to sleep on their couch. Feeling a kindred obligation to the group, Brooks agreed to help steal a car in which he would be directed to fire a distraction shot in the air. During the attempted carjacking, it was not Brooks who fired the shot that resulted in murder, but his accomplice who killed the victim. Due to a felony murder statute, the court found that, Brooks, at the age of 15, was convicted of first-degree murder and life in prison, despite having no previous criminal record and not firing the bullet that directly resulted in the murder.

Brooks remained in prison until Joanne C Benson, Brooks' previous elementary school principal, and Abdul Raheem Abdullah, President of Prince George's County Education Coalition, used their personal finances to travel to Colorado and advocate for legislative change. At age 40, Brooks returned to his home of Maryland for the first time in 25 years and is able to enjoy the first steps of freedom. Unfortunately, many children are not as fortunate as Brooks and remain in the prison system under a wrongful conviction. According to Human Rights Watch and Amnesty International, 45 out of 172 of youth offenders surveyed were serving life sentences without parole after being convicted of felony murder.

These children deserve to know freedom, they deserve the chance to reform.

The adoption of Senate Bill 395 will bar wrongful severe sanctions against our youth and allow for the progression we all wish to see in our justice system. I ask the General Assembly to **please adopt Senate Bill 395** which addresses felony murder and enacts limitation provisions and review of convictions for children.

Best,  
Barbara Hauck (she/her)  
3420 Harford Road  
Baltimore, MD 21218  
Showing Up for Racial Justice Baltimore

**Citations:**

- <https://www.marylandmatters.org/2019/07/09/lawmakers-welcome-home-man-sentenced-to-life-as-a-teen/>
- <https://www.distractify.com/p/curtis-brooks-kids-behind-bars>
- <https://theappeal.org/curtis-brooks-felony-murder-life-sentence/?fbclid=IwAR3-zHHXCmQPn066v4nsvsi56rSIC4CbZS4Hn8jLBtENfqZRY92S1tZBUMU#.XRmAjr5oFG.twitter>



# Senate Bill 395 Written Testimony.pdf

Uploaded by: Kamins, Rachel

Position: FAV



## POSITION ON PROPOSED LEGISLATION

**BILL NO.:** 0395

**TITLE:** Criminal Law-Felony Murder-Limitation And Review Of Convictions For Children

**COMMITTEE:** Senate Judiciary Proceedings

**HEARING DATE:** February 11, 2021

**POSITION:** Support

**SUBMITTED BY:** Rachel M. Kamins, 6 Saint Paul Street, Suite 1302, Baltimore, MD 21202

The Maryland Office of the Public Defender respectfully requests that the Committee issue a favorable report on Senate Bill 0395.

In Maryland, children may be convicted of first degree murder, which carries a mandatory life sentence, for murders they did not commit, intend, or foresee that their co-defendant would commit. This “felony murder doctrine” rests on the premise that a killing that occurs during commission of a felony is foreseeable to all those participating in the felony. The doctrine, as applied to children, whom the Supreme Court has recognized are developmentally and neurologically less able than adults to foresee risks and anticipate the consequences of their actions, is flagrantly unconstitutional.

A life sentence for a child convicted of felony murder runs afoul of the 8<sup>th</sup> Amendment, which proscribes excessive and disproportionate sentences. Sending a child to prison for the rest of his life for participating in a felony, during the course of which someone is killed, is *excessive* where the child neither intended nor reasonably could have foreseen the death. Mandatory life sentences are *disproportionate* for youthful offenders convicted of unintended homicides because they have intrinsically lower moral culpability, less amenability to deterrence, and a greater capacity for rehabilitation.

Abolishing felony murder for children and allowing for the re-sentencing of children already convicted of felony murder, as this Bill proposes, aligns with the national trend to treat juvenile offenders differently because the penological considerations *are different*. Many states require the government to prove intent rather than simply inferring malice from the underlying felony; other states have downgraded felony murder to a less serious offense; and yet others have abolished felony murder outright.

Maryland’s felony murder law, as applied to children, exacts a grave injustice that demands reform. For these reasons, the Maryland Office of the Public Defender urges a favorable report on Senate Bill 0395.

*For further information please contact Krystal Williams, Director, Government Relations Division, by email at [krystal.williams@maryland.gov](mailto:krystal.williams@maryland.gov) or by phone at 443-908-0241.*

# **SURJ Youth Sentence Severity.pdf**

Uploaded by: Kleinman, Jan

Position: FAV

Dear Members of the Judicial Proceedings Committee,

This testimony is being submitted by Showing Up for Racial Justice Baltimore, a group of individuals working to move white folks as part of a multi-racial movement for equity and racial justice in Baltimore City and Baltimore County. We are also working in collaboration with Out for Justice. I am a resident of MD District 43. Since all of us were once teenagers, we all remember missteps we made of which we are not proud. All of us here know that we have grown, matured, and changed since we were teenagers. We humans have the capacity to learn. Yet, suppose the worst thing you ever did as a teenager condemned you for life? That exact thing is happening to some of our youthful fellow citizens. That is why I am testifying in **support of Senate Bill 395**.



**Senate Bill 395** prohibits children from being charged with first degree murder in cases where someone incidentally dies in the commission of another felony crime. Further, it allows those previously charged with first-degree murder as juveniles in cases like these to have their sentences reduced.

In *State v. Allen*, the Court of Appeals of Maryland held that the felony-murder rule is a legal fiction in which the intent and malice to commit the underlying felony is transferred to elevate an unintentional killing to first degree murder. This holding, as reflected in our current state statutes, does not exclude children from being convicted of first-degree murder under this legal fiction, regardless of actual culpability. The reasoning behind this holding is held in proximate cause theory, which holds defendants accountable for any deaths that should have been “foreseeable” during the crime. Yet, the Supreme Court and statistical data on adolescent behavior have reaffirmed that severe convictions against juvenile offenders is not only unconstitutional but strengthens the racially charged “school to prison” pipeline cycle.

The Supreme Court has recognized repeatedly that children and adolescents are the most susceptible to be swept into the current of criminal behavior. Taking away the opportunity for reform by enacting the most severe convictions, regardless of intent, violates the 8th Amendment which prohibits cruel and unusual punishments. In *Roper v. Simmons*, the Court reasoned that “immaturity diminishes [child offenders’] culpability, as does their susceptibility to outside pressures and influences”. The majority backed their rationale of this holding with the use of scientific evidence that the underdevelopment of neurological synapses within an adolescent’s mind affects decision making and consequential rationalization that does not allow an adolescent to be culpable to the same degree that an adult would in the same crime. The Supreme Court supported their underlying rationale of *Roper v. Simmons* with *Graham v. Florida* and *Miller v. Alabama*. In both cases, the Court affirmed their view that children have the indistinguishable characteristic of future reform and therefore juvenile offenders should be barred from the most severe convictions. In the specific instance of transferred intent against minors, which Senate Bill 395 looks to address, Justice Breyer directly answers that question in his concurring opinion in *Miller v. Alabama*, where he states, “transferred intent is not sufficient to satisfy the intent to murder [and] the ability to consider the full consequences of a course of action and to adjust one’s conduct accordingly is precisely what we know juveniles lack capacity to do effectively”. If the Supreme Court of the United States has held in multiple cases that children are to be completely absolved from the most severe convictions because it violates the constitutional fundamentals of justice, why has Maryland continued to hold juveniles guilty in cases where direct culpability is deficient or completely absent?

As mentioned above, the Supreme Court relied on scientific evidence to support their holdings. Without enacting SB 395, juveniles involved in criminal pursuits can be convicted of first-degree murder, even if they were not the direct actor of the murder. Since youth tend to commit crimes in groups, thanks to peer pressure, this allows adolescents to be exceptionally vulnerable to the most severe punishments. The National Crime Victimization Survey states that close to 40 percent of crimes committed by people ages 12 to 20 have multiple perpetrators, compared with only 5 percent for adults 30 and older. And, according to the American Psychological Association, it has been shown that due to underdeveloped prefrontal cortexes, the presence of peers increases adolescent risk taking because of heightened sensitivity to the potential reward value of risk taking in comparison to adults making similar decisions. To continue to allow children to be convicted of first-degree murder under section a(4) of § 2-201, or cases involving “transferred intent”, is to wrongfully exploit the biological callowness of adolescents to fuel the prison industrial complex.

Finally, without adopting SB395, the criminal justice system will continue to be a predatory vehicle for racial prejudice and injustice. Allowing the conviction of first-degree murder under “transferred intent” for children will disproportionately affect communities of color. According to [childrensdefense.org](http://childrensdefense.org), 67% of children in the juvenile justice system were children of color, and black youth represented 54% of youth prosecuted in adult criminal court.



The most notable example of the injustice that is caused by murder felony statutes is the story of Curtis Brooks, a Maryland resident, who was charged with murder at the age of 15. Throughout his adolescence, Brooks struggled to maintain a consistent home and was in search of stability when he left Maryland to reunite with his mother in Colorado. Brooks’ mother was battling drug addiction at the time and Brooks soon found himself displaced and took refuge on garage floors to avoid sleeping on the streets. In an attempt to escape a blizzard, Brooks wandered into an arcade and was approached by a group of teenagers who had previously allowed him to sleep on their couch. Feeling a kindred obligation to the group, Brooks agreed to help steal a car in which he would be directed to fire a distraction shot in the air. During the attempted carjacking, it was not Brooks who fired the shot that resulted in murder, but his accomplice who killed the victim. Due to a felony murder statute, the court found that, Brooks, at the age of 15, was guilty of first-degree murder and sentenced to life in prison, despite having no previous criminal record and not firing the bullet that directly resulted in the murder.

Brooks remained in prison until Joanne C. Benson, Brooks’ previous elementary school principal, and Abdul Raheem Abdullah, President of Prince George’s County Education Coalition, used their personal finances to travel to Colorado and advocate for legislative change. At age 40, Brooks returned to his home of Maryland for the first time in 25 years and is able to enjoy the first steps of freedom. Unfortunately, many children are not as fortunate as Brooks and remain in the prison system under a wrongful conviction. According to Human Rights Watch and Amnesty International, 45 out of 172 of youth offenders surveyed were serving life sentences without parole after being convicted of felony murder.

These children deserve to know freedom and they deserve the chance to reform.

The adoption of Senate Bill 395 will bar wrongful severe sanctions against our youth and allow for the progression we all wish to see in our justice system. I ask the General Assembly to **please adopt Senate Bill 395** which addresses felony murder and enacts limitation provisions and review of convictions for children.

Best,

**Jan Kleinman**  
**2700 Remington Avenue, Apt 504**  
**Baltimore, MD 21211**  
Showing Up for Racial Justice Baltimore

**Citations:**

- <https://www.marylandmatters.org/2019/07/09/lawmakers-welcome-home-man-sentenced-to-life-as-a-teen/>
- <https://www.distractify.com/p/curtis-brooks-kids-behind-bars>
- <https://theappeal.org/curtis-brooks-felony-murder-life-sentence/?fbclid=IwAR3-zHHXCmQPn066v4nsvsi56rSIC4CbZS4Hn8jLbtENfqZRY92S1tZBUMU#.XRmAjr5oFG.twitter>

# **Meadows Written Testimony SB395.pdf**

Uploaded by: Meadows, Lila

Position: FAV

**IN SUPPORT OF SENATE BILL 395**

**To: House of Delegates Judiciary Committee**

**From: Lila Meadows, University of Maryland School of Law, 500 W. Baltimore Street  
Baltimore, Maryland 21201**

**Date: February 11, 2021**

**Re: Senate Bill 395**

**Position: SUPPORT**

Senate Bill 395 will substantially reform felony murder as it is applied to juveniles and prevent children from dying in prison for crimes they have not committed. In Maryland, felony murder is treated identically to premeditated first degree murder for the purposes of sentencing and carries a mandatory life sentence. Because Maryland's parole system is fundamentally broken with respect to those serving life, a life sentence carries a very high probability that a juvenile convicted of felony murder will die in prison.

Under the felony murder doctrine, the state needed only to prove that a juvenile was engaged in a felony, in many cases a robbery, when a murder occurs. Unlike traditional first degree murder cases, the state does not have to prove that the juvenile had any intent to commit a murder. It is sufficient for the State to show only that a felony was underway when someone else committed the murder. The thinking is that if you are going to engage in a dangerous felony, you should be able to foresee that someone may die as a result. In other words, if you're in for a dime, you're in for a dollar.

I've sat in our prisons with many clients convicted of felony murder who accept responsibility for the role they have played in a crime and express deep remorse for the loss of life that occurred but also struggle to understand how they have been sentenced to life for a murder they did not plan or actually commit. In my experience, when individuals commit felonies, they typically aren't engaging in the type of rational thought that lends itself to foreseeability. The rule is particularly unworkable as applied to juveniles. The Supreme Court recognized in a series of recent cases that juvenile brain development lags behind that of an adult. As a result, children are less able to measure risk and foresee the consequences of their actions. Recognizing those limitations, it's difficult to justify applying a rule that is based on foreseeability to minors where the penalty is a life sentence and may in fact be unconstitutional under the Eighth Amendment.

In the case of one of my clients, the State admitted that my 16 year old client had no knowledge that a murder would occur. His crime was standing behind his co-defendant, a man 5 years his senior, as his co-defendant pulled a gun and announced a hold up of a gas station. The State initially offered my client 10 years in exchange for a guilty plea. The case was my client's first involvement with the criminal justice system. Without a sophisticated understanding of the system or of the felony murder doctrine, my client could not understand the risks of going to trial. At 16 years old, ten years seemed like a lifetime. He was found guilty of felony murder and sentenced to life plus 20 years consecutive. In over 37 years of incarceration, he was recommended for parole twice and twice denied by the Governor. The client was one of the first to have his case reviewed under the new Sentencing Review Unit in the Baltimore City State's Attorney's Office. After State's Attorney Marilyn Mosby agreed to relief, he was resentenced in

December 2020 to time served. He was 16 years old the day he entered prison, 53 years old the day he walked out, and had served almost four times the amount of time prosecutors offered in their plea deal.

In many ways the client I described above is lucky. Other clients I have represented were convicted in counties that do not have a Sentencing Review Unit and have little if any opportunity to get back into court. The retroactive provision of House Bill 385 is essential to ensure that men and women who were convicted of felony murder as juveniles have a mechanism to be resentenced.

The exact number of prisoners serving life sentences for felony murder in Maryland is not easily determined because it is not always tracked separately from other first degree murder convictions. But it's safe to say there are hundreds of men and women sitting in our prisons today serving life sentences that do not reflect their actual culpability. This is an affront to the bedrock principal of proportionality in our justice system and on a practical level, a waste of tax payer money and human capital. It's time for Maryland to end charging juveniles with felony murder.



**O. Moyd Written Testimony - SB 0395.pdf**

Uploaded by: Moyd, Esquire, Olinda

Position: FAV

## MARYLAND ALLIANCE FOR JUSTICE REFORM

Working to end unnecessary incarceration and build strong, safe communities



February 9, 2021

Chairman William C. Smith, Jr.  
Judicial Proceedings Committee  
2 East Miller Senate Office Bldg.  
11 Bladen Street  
Annapolis, MD 21401

**RE: Senate Bill SB 0395 – Favorable  
Written Testimony by Olinda Moyd, Esq.**

Dear Chairman Smith and Committee Members:

The Maryland Alliance for Justice Reform, a non-partisan state-wide group of volunteers seeking to address inequities through legislative reform, **supports the passage of this bill**. I have practiced as a Public Defender for 30 years and I know first-hand that most children do not possess the mental consciousness necessary to meet the statutory elements required for murder in the first degree. Under the Maryland Criminal Code, first degree murder requires that the person act deliberately, willfully and with premeditation.

Despite repeated warnings from our parents, each of us is probably guilty of engaging in forbidden conduct as children because we were influenced by our peers. Many of the children sentenced as adults pursuant to Maryland's felony murder rule didn't have a clue as to the seriousness of the situation, did not actually commit the act that resulted in the felonious offense and were unable to fully comprehend the consequences of their actions.

The current doctrine allows the state to charge children as adults and sentence them to life for murders even when they were not the principle. They can be sentenced to murder, even if they didn't know the other person involved intended to commit a murder. Very often, children and women are coaxed into going along for the ride to serve as a distraction or decoy for more experienced offenders. In most cases, they are not the primary perpetrators or the mastermind behind the felony offense. The Maryland doctrine requires foreseeability, yet many children are sentenced to life even if they could never anticipate the risk or consequences of their actions. A child could be charged under the felony murder doctrine even in situations where the murder is not foreseeable - such as when a trigger-happy officer shoots the victim upon arriving on the scene or when a third person suffers a heart attack and dies.

The harsh reality is that many of these children were sentenced during the late 1980's and early 1990's when Black children were described as "super-predators" and the nation's "tough on crime" stance resulted in the passage of the 1994 Crime Bill.<sup>1</sup> Even its staunchest supporters confess that the passage of this bill was an outright assault against people of color, which accelerated mass incarceration and resulted in building more prisons. This was a dark period in American history which was deeply rooted in racism. Maryland incarcerates more Black men than any other state in the nation.<sup>2</sup> The impact of these punitive sentencing and racial inequities lingers today. The children sentenced under these harsh laws are now the men and women who we seek a leveling of the playing field for today, through the passage of this legislation. Maryland lags behind other jurisdictions and national trends and scientific evidence, which supports ending life sentences for children. Excessive sentencing does not serve as a deterrent nor does it serve any rehabilitative purpose.

This bill would stop the state from imposing a sentence of life without the possibility of parole or release for children. In Maryland, approximately 200 people who are serving life sentences were sentenced when they were children and most of them are over 50 years old and have been locked behind bars for over 20 years. Combined with the fact that the Governor has closed the door for lifers to be paroled, many of these men and women will serve many more decades in prison. Some will die in prison, especially as the COVID-19 virus spreads throughout our prison population. I have also volunteered in Maryland's institutions for decades as an instructor and advisor to various self-help groups in prisons. I have witnessed these men and women age behind bars and observed their physical conditions deteriorate as the decades pass. This legislation would also allow persons who are already convicted as a child to apply to the court for re-sentencing. These men and women sentenced as children are not necessarily the same people today that they were decades ago. Many have served 30 or 40 years or more, and have demonstrated growth and rehabilitation. They should be afforded the opportunity to demonstrate such to the court.

The Maryland Alliance for Justice Reform asks that you correct the wrongs that plague Maryland's criminal legal system. Now is the time to revisit long-standing practices in sentencing and corrections. Passing this bill will be a step in the right direction.

---

<sup>1</sup> Formerly known as the Violent Crime Control and Law Enforcement Act of 1994, enacted by 103 U.S. Congress, Pub.L. 103-322, Signed by President William Clinton.

<sup>2</sup> Rethinking Approaches to Over-Incarceration of Black Young Adults in Maryland, Justice Policy Institute Report, November 2019.

# **SB 395 - Prohibit Charging Juveniles for First Deg**

Uploaded by: Murray, Kerriann

Position: FAV

Dear Members of the Judicial Proceedings Committee,

This testimony is being submitted by Showing Up for Racial Justice Baltimore, a group of individuals working to move white folks as part of a multi-racial movement for equity and racial justice in Baltimore City and Baltimore County. We are also working in collaboration with Out for Justice. I am a resident of MD District 10. I am testifying in **support of Senate Bill 395**.



**Senate Bill 395**, which prohibits children from being charged with first degree murder in cases where someone incidentally dies in the commission of another felony crime and allows those previously charged with first-degree murder as juveniles in cases like these to have their sentence reduced.

In *State v. Allen*, the Court of Appeals of Maryland held that the felony-murder rule is a legal fiction in which the intent and malice to commit the underlying felony is transferred to elevate an unintentional killing to first degree murder. This holding, as reflected in our current state statutes, does not exclude children from being convicted of first-degree murder under this legal fiction, regardless of actual culpability. The reasoning behind this holding is held in proximate cause theory, which holds defendants accountable for any deaths that should have been “foreseeable” during the crime. The Supreme Court and statistical data on adolescent behavior have reaffirmed that severe convictions against juvenile offenders is not only unconstitutional but strengthens the racially charged “school to prison” pipeline cycle.

The Supreme Court has recognized repeatedly that children and adolescents are the most susceptible to be swept into the current of criminal behavior and taking away the opportunity for reform by enacting the most severe convictions, regardless of intent, violates the 8th Amendment which prohibits cruel and unusual punishments. In *Roper v Simmons*, the Court reasoned in their ruling that “immaturity diminishes [child offenders’] culpability, as does their susceptibility to outside pressures and influences”. The majority backed their rationale of this holding with the use of scientific evidence that the underdevelopment of neurological synapses within an adolescent’s mind affects decision making and consequential rationalization that does not allow an adolescent to be culpable to the same degree that an adult would in the same crime. The Supreme Court supported their underlying rationale of *Roper v Simmons* with *Graham v Florida* and *Miller v Alabama*. In both cases, the Court affirmed their view that children have the indistinguishable characteristic of future reform and therefore juvenile offenders should be barred from the most severe convictions. In the specific instance of transferred intent against minors, which Senate Bill 395 looks to address, Justice Breyer directly answers that question in his concurring opinion in *Miller v Alabama*, where he states, “transferred intent is not sufficient to satisfy the intent to murder [and] the ability to consider the full consequences of a course of action and to adjust one’s conduct accordingly is precisely what we know juveniles lack capacity to do effectively”. If the Supreme Court of the United States has held in multiple cases that children are to be completely absolved from the most severe convictions because it violates the constitutional fundamentals of justice, why has Maryland continued to hold juveniles guilty in cases where direct culpability is deficient or completely absent?

As mentioned above, the Supreme Court relied on scientific evidence to support their holdings. Without enacting SB 395, juveniles involved in criminal pursuits can be convicted of first-degree murder, even if they were not the direct actor of the murder. This allows adolescents to be exceptionally vulnerable to the most severe punishments as juveniles tend to commit crimes in groups due to peer pressure. The National Crime Victimization Survey states that close to 40 percent of crimes committed by people ages 12 to 20 have multiple perpetrators, compared with only 5 percent for adults 30 and older. And, according to the American Psychological Association, it has been shown that due to underdeveloped prefrontal cortexes, the presence of peers increases adolescent risk taking because of heightened sensitivity to the potential reward value of risk taking in comparison to adults making similar decisions. To continue to allow children to be convicted of first-degree murder under section a(4) of § 2-201, or cases involving “transferred intent”, is to wrongfully exploit the biological callowness of adolescents to fuel the prison industrial complex.

Finally, without adopting SB395, the criminal justice system will continue to be a predatory vehicle for racial prejudice and injustice. Allowing the conviction of first-degree murder under “transferred intent” for children will disproportionately affect POC communities. According to [childrensdefense.org](http://childrensdefense.org), 67% of children in the juvenile justice system were children of color and black youth represented 54% of youth prosecuted in adult criminal court.

The most notable example of the injustice that is caused by murder felony statutes is the story of Curtis Brooks, a Maryland resident, who was charged with murder at the age of 15. Throughout his adolescence, Brooks struggled to maintain a consistent home and was in search of stability when he left Maryland to reunite with his mother in Colorado. Brooks' mother was battling drug addiction at the time and Brooks soon found himself displaced and finding refuge on garage floors to avoid sleeping on the streets. In an attempt to escape a blizzard, Brooks wandered an arcade and was approached by a group of teenagers who had previously allowed him to sleep on their couch. Feeling a kindred obligation to the group, Brooks agreed to help steal a car in which he would be directed to fire a distraction shot in the air. During the attempted carjacking, it was not Brooks who fired the shot that resulted in murder, but his accomplice who killed the victim. Due to a felony murder statute, the court found that, Brooks, at the age of 15, was convicted of first-degree murder and life in prison, despite having no previous criminal record and not firing the bullet that directly resulted in the murder.



Brooks remained in prison until Joanne C Benson, Brooks' previous elementary school principal, and Abdul Raheem Abdullah, President of Prince George's County Education Coalition, used their personal finances to travel to Colorado and advocate for legislative change. At age 40, Brooks returned to his home of Maryland for the first time in 25 years and is able to enjoy the first steps of freedom. Unfortunately, many children are not as fortunate as Brooks and remain in the prison system under a wrongful conviction. According to Human Rights Watch and Amnesty International, 45 out of 172 of youth offenders surveyed were serving life sentences without parole after being convicted of felony murder.

These children deserve to know freedom, they deserve the chance to reform.

The adoption of Senate Bill 395 will bar wrongful severe sanctions against our youth and allow for the progression we all wish to see in our justice system. I ask the General Assembly to **please adopt Senate Bill 395** which addresses felony murder and enacts limitation provisions and review of convictions for children.

Best,  
Tamara Todd  
221 Northway Rd, Reisterstown, MD 21136  
Showing Up for Racial Justice Baltimore

**Citations:**

- <https://www.marylandmatters.org/2019/07/09/lawmakers-welcome-home-man-sentenced-to-life-as-a-teen/>
- <https://www.distractify.com/p/curtis-brooks-kids-behind-bars>
- <https://theappeal.org/curtis-brooks-felony-murder-life-sentence/?fbclid=IwAR3-zHHXCmQPn066v4nsvsi56rSiC4CbZS4Hn8jL.BtENfqZRY92S1tZBUMU#.XRmAjrZ5oFG.twitter>

**SB 395 testimony.pdf**

Uploaded by: Novak, Natalie

Position: FAV

Dear Members of the Judicial Proceedings Committee,

This testimony is being submitted by Showing Up for Racial Justice Baltimore, a group of individuals working to move white folks as part of a multi-racial movement for equity and racial justice in Baltimore City and Baltimore County. We are also working in collaboration with Out for Justice. I am a resident of MD District 41. I am testifying in **support of Senate Bill 395**.



**Senate Bill 395**, which prohibits children from being charged with first degree murder in cases where someone incidentally dies in the commission of another felony crime and allows those previously charged with first-degree murder as juveniles in cases like these to have their sentence reduced.

In *State v. Allen*, the Court of Appeals of Maryland held that the felony-murder rule is a legal fiction in which the intent and malice to commit the underlying felony is transferred to elevate an unintentional killing to first degree murder. This holding, as reflected in our current state statutes, does not exclude children from being convicted of first-degree murder under this legal fiction, regardless of actual culpability. The reasoning behind this holding is held in proximate cause theory, which holds defendants accountable for any deaths that should have been “foreseeable” during the crime. The Supreme Court and statistical data on adolescent behavior have reaffirmed that severe convictions against juvenile offenders is not only unconstitutional but strengthens the racially charged “school to prison” pipeline cycle.

The Supreme Court has recognized repeatedly that children and adolescents are the most susceptible to be swept into the current of criminal behavior and taking away the opportunity for reform by enacting the most severe convictions, regardless of intent, violates the 8th Amendment which prohibits cruel and unusual punishments. In *Roper v Simmons*, the Court reasoned in their ruling that “immaturity diminishes [child offenders’] culpability, as does their susceptibility to outside pressures and influences”. The majority backed their rationale of this holding with the use of scientific evidence that the underdevelopment of neurological synapses within an adolescent’s mind affects decision making and consequential rationalization that does not allow an adolescent to be culpable to the same degree that an adult would in the same crime. The Supreme Court supported their underlying rationale of *Roper v Simmons* with *Graham v Florida* and *Miller v Alabama*. In both cases, the Court affirmed their view that children have the indistinguishable characteristic of future reform and therefore juvenile offenders should be barred from the most severe convictions. In the specific instance of transferred intent against minors, which Senate Bill 395 looks to address, Justice Breyer directly answers that question in his concurring opinion in *Miller v Alabama*, where he states, “transferred intent is not sufficient to satisfy the intent to murder [and] the ability to consider the full consequences of a course of action and to adjust one’s conduct accordingly is precisely what we know juveniles lack capacity to do effectively”. If the Supreme Court of the United States has held in multiple cases that children are to be completely absolved from the most severe convictions because it violates the constitutional fundamentals of justice, why has Maryland continued to hold juveniles guilty in cases where direct culpability is deficient or completely absent?

As mentioned above, the Supreme Court relied on scientific evidence to support their holdings. Without enacting SB 395, juveniles involved in criminal pursuits can be convicted of first-degree murder, even if they were not the direct actor of the murder. This allows adolescents to be exceptionally vulnerable to the most severe punishments as juveniles tend to commit crimes in groups due to peer pressure. The National Crime Victimization Survey states that close to 40 percent of crimes committed by people ages 12 to 20 have multiple perpetrators, compared with only 5 percent for adults 30 and older. And, according to the American Psychological Association, it has been shown that due to underdeveloped prefrontal cortexes, the presence of peers increases adolescent risk taking because of heightened sensitivity to the potential reward value of risk taking in comparison to adults making similar decisions. To continue to allow children to be convicted of first-degree murder under section a(4) of § 2-201, or cases involving “transferred intent”, is to wrongfully exploit the biological callowness of adolescents to fuel the prison industrial complex.

Finally, without adopting SB395, the criminal justice system will continue to be a predatory vehicle for racial prejudice and injustice. Allowing the conviction of first-degree murder under “transferred intent” for children will disproportionately affect POC communities. According to [childrensdefense.org](http://childrensdefense.org), 67% of children in the juvenile justice system were children of color and black youth represented 54% of youth prosecuted in adult criminal court.



The most notable example of the injustice that is caused by murder felony statutes is the story of Curtis Brooks, a Maryland resident, who was charged with murder at the age of 15. Throughout his adolescence, Brooks struggled to maintain a consistent home and was in search of stability when he left Maryland to reunite with his mother in Colorado. Brooks' mother was battling drug addiction at the time and Brooks soon found himself displaced and finding refuge on garage floors to avoid sleeping on the streets. In an attempt to escape a blizzard, Brooks wandered an arcade and was approached by a group of teenagers who had previously allowed him to sleep on their couch. Feeling a kindred obligation to the group, Brooks agreed to help steal a car in which he would be directed to fire a distraction shot in the air. During the attempted carjacking, it was not Brooks who fired the shot that resulted in murder, but his accomplice who killed the victim. Due to a felony murder statute, the court found that, Brooks, at the age of 15, was convicted of first-degree murder and life in prison, despite having no previous criminal record and not firing the bullet that directly resulted in the murder.



Brooks remained in prison until Joanne C Benson, Brooks' previous elementary school principal, and Abdul Raheem Abdullah, President of Prince George's County Education Coalition, used their personal finances to travel to Colorado and advocate for legislative change. At age 40, Brooks returned to his home of Maryland for the first time in 25 years and is able to enjoy the first steps of freedom. Unfortunately, many children are not as fortunate as Brooks and remain in the prison system under a wrongful conviction. According to Human Rights Watch and Amnesty International, 45 out of 172 of youth offenders surveyed were serving life sentences without parole after being convicted of felony murder.

These children deserve to know freedom, they deserve the chance to reform.

The adoption of Senate Bill 395 will bar wrongful severe sanctions against our youth and allow for the progression we all wish to see in our justice system. I ask the General Assembly to **please adopt Senate Bill 395** which addresses felony murder and enacts limitation provisions and review of convictions for children.

Best,  
**Natalie Novak**  
**1206 W. Northern Parkway, Baltimore, MD 21209**

**Citations:**

- <https://www.marylandmatters.org/2019/07/09/lawmakers-welcome-home-man-sentenced-to-life-as-a-teen/>
- <https://www.distractify.com/p/curtis-brooks-kids-behind-bars>
- <https://theappeal.org/curtis-brooks-felony-murder-life-sentence/?fbclid=IwAR3-zHHXCmQPn066v4nsvsi56rSIC4CbZS4Hn8jLBtENfqZRY92S1tZBUMU#.XRmAjr5oFG.twitter>

# **SB 395 - Prohibit Charging Juveniles for First Deg**

Uploaded by: Pereschuk, Alicia

Position: FAV

Dear Members of the Judicial Proceedings Committee,

This testimony is being submitted by Showing Up for Racial Justice Baltimore, a group of individuals working to move white folks as part of a multi-racial movement for equity and racial justice in Baltimore City and Baltimore County. We are also working in collaboration with Out for Justice. I am a resident of MD District 43. **I am testifying in support of Senate Bill 395.**



**Senate Bill 395**, which prohibits children from being charged with first degree murder in cases where someone incidentally dies in the commission of another felony crime and allows those previously charged with first-degree murder as juveniles in cases like these to have their sentence reduced.

In *State v. Allen*, the Court of Appeals of Maryland held that the felony-murder rule is a legal fiction in which the intent and malice to commit the underlying felony is transferred to elevate an unintentional killing to first degree murder. This holding, as reflected in our current state statutes, does not exclude children from being convicted of first-degree murder under this legal fiction, regardless of actual culpability. The reasoning behind this holding is held in proximate cause theory, which holds defendants accountable for any deaths that should have been “foreseeable” during the crime. The Supreme Court and statistical data on adolescent behavior have reaffirmed that severe convictions against juvenile offenders is not only unconstitutional but strengthens the racially charged “school to prison” pipeline cycle.

The Supreme Court has recognized repeatedly that children and adolescents are the most susceptible to be swept into the current of criminal behavior and taking away the opportunity for reform by enacting the most severe convictions, regardless of intent, violates the 8th Amendment which prohibits cruel and unusual punishments. In *Roper v Simmons*, the Court reasoned in their ruling that “immaturity diminishes [child offenders] culpability, as does their susceptibility to outside pressures and influences”. The majority backed their rationale of this holding with the use of scientific evidence that the underdevelopment of neurological synapses within an adolescent's mind affects decision making and consequential rationalization that does not allow an adolescent to be culpable to the same degree that an adult would in the same crime. The Supreme Court supported their underlying rationale of *Roper v Simmons* with *Graham v Florida* and *Miller v Alabama*. In both cases, the Court affirmed their view that children have the indistinguishable characteristic of future reform and therefore juvenile offenders should be barred from the most severe convictions. In the specific instance of transferred intent against minors, which Senate Bill 395 looks to address, Justice Breyer directly answers that question in his concurring opinion in *Miller v Alabama*, where he states, “transferred intent is not sufficient to satisfy the intent to murder [and] the ability to consider the full consequences of a course of action and to adjust one’s conduct accordingly is precisely what we know juveniles lack capacity to do effectively”. If the Supreme Court of the United States has held in multiple cases that children are to be completely absolved from the most severe convictions because it violates the constitutional fundamentals of justice, why has Maryland continued to hold juveniles guilty in cases where direct culpability is deficient or completely absent?

As mentioned above, the Supreme Court relied on scientific evidence to support their holdings. Without enacting SB 395, juveniles involved in criminal pursuits can be convicted of first-degree murder, even if they were not the direct actor of the murder. This allows adolescents to be exceptionally vulnerable to the most severe punishments as juveniles tend to commit crimes in groups due to peer pressure. The National Crime Victimization Survey states that close to 40 percent of crimes committed by people ages 12 to 20 have multiple perpetrators, compared with only 5 percent for adults 30 and older. And, according to the American Psychological Association, it has been shown that due to underdeveloped prefrontal cortexes, the presence of peers increases adolescent risk taking because of heightened sensitivity to the potential reward value of risk taking in comparison to adults making similar decisions. To continue to allow children to be convicted of first-degree murder under section a(4) of § 2-201, or cases involving “transferred intent”, is to wrongfully exploit the biological callowness of adolescents to fuel the prison industrial complex.

Finally, without adopting SB395, the criminal justice system will continue to be a predatory vehicle for racial prejudice and injustice. Allowing the conviction of first-degree murder under “transferred intent” for children will disproportionately affect POC communities. According to [childrensdefense.org](http://childrensdefense.org), 67% of children in the juvenile justice system were children of color and black youth represented 54% of youth prosecuted in adult criminal court.



The most notable example of the injustice that is caused by murder felony statutes is the story of Curtis Brooks, a Maryland resident, who was charged with murder at the age of 15. Throughout his adolescence, Brooks struggled to maintain a consistent home and was in search of stability when he left Maryland to reunite with his mother in Colorado. Brooks' mother was battling drug addiction at the time and Brooks soon found himself displaced and finding refuge on garage floors to avoid sleeping on the streets. In an attempt to escape a blizzard, Brooks wandered an arcade and was approached by a group of teenagers who had previously allowed him to sleep on their couch. Feeling a kindred obligation to the group, Brooks agreed to help steal a car in which he would be directed to fire a distraction shot in the air. During the attempted carjacking, it was not Brooks who fired the shot that resulted in murder, but his accomplice who killed the victim. Due to a felony murder statute, the court found that, Brooks, at the age of 15, was convicted of first-degree murder and life in prison, despite having no previous criminal record and not firing the bullet that directly resulted in the murder.

Brooks remained in prison until Joanne C Benson, Brooks' previous elementary school principal, and Abdul Raheem Abdullah, President of Prince George's County Education Coalition, used their personal finances to travel to Colorado and advocate for legislative change. At age 40, Brooks returned to his home of Maryland for the first time in 25 years and is able to enjoy the first steps of freedom. Unfortunately, many children are not as fortunate as Brooks and remain in the prison system under a wrongful conviction. According to Human Rights Watch and Amnesty International, 45 out of 172 of youth offenders surveyed were serving life sentences without parole after being convicted of felony murder.

These children deserve to know freedom, they deserve the chance to reform.

The adoption of Senate Bill 395 will bar wrongful severe sanctions against our youth and allow for the progression we all wish to see in our justice system. I ask the General Assembly to **please adopt Senate Bill 395** which addresses felony murder and enacts limitation provisions and review of convictions for children.

Best,  
Alicia Pereschuk  
404 W 29<sup>th</sup> St  
Baltimore MD 21211  
Showing Up for Racial Justice Baltimore

**Citations:**

- <https://www.marylandmatters.org/2019/07/09/lawmakers-welcome-home-man-sentenced-to-life-as-a-teen/>
- <https://www.distractify.com/p/curtis-brooks-kids-behind-bars>
- <https://theappeal.org/curtis-brooks-felony-murder-life-sentence/?fbclid=IwAR3-zHHXCmQPn066v4nsvsi56rSIC4CbZS4Hn8jLBtENfqZRY92S1tZBUMU#.XRmAjr5oFG.twitter>

# **SB 395 - Prohibit Charging Juveniles for First Deg**

Uploaded by: Powell, Holly

Position: FAV

Dear Members of the Judicial Proceedings Committee,

This testimony is being submitted by Showing Up for Racial Justice Baltimore, a group of individuals working to move white folks as part of a multi-racial movement for equity and racial justice in Baltimore City and Baltimore County. We are also working in collaboration with Out for Justice. I am a resident of MD District 3. I am testifying in **support of Senate Bill 395**.



**Senate Bill 395**, which prohibits children from being charged with first degree murder in cases where someone incidentally dies in the commission of another felony crime and allows those previously charged with first-degree murder as juveniles in cases like these to have their sentence reduced.

In *State v. Allen*, the Court of Appeals of Maryland held that the felony-murder rule is a legal fiction in which the intent and malice to commit the underlying felony is transferred to elevate an unintentional killing to first degree murder. This holding, as reflected in our current state statutes, does not exclude children from being convicted of first-degree murder under this legal fiction, regardless of actual culpability. The reasoning behind this holding is held in proximate cause theory, which holds defendants accountable for any deaths that should have been “foreseeable” during the crime. The Supreme Court and statistical data on adolescent behavior have reaffirmed that severe convictions against juvenile offenders is not only unconstitutional but strengthens the racially charged “school to prison” pipeline cycle.

The Supreme Court has recognized repeatedly that children and adolescents are the most susceptible to be swept into the current of criminal behavior and taking away the opportunity for reform by enacting the most severe convictions, regardless of intent, violates the 8th Amendment which prohibits cruel and unusual punishments. In *Roper v Simmons*, the Court reasoned in their ruling that “immaturity diminishes [child offenders’] culpability, as does their susceptibility to outside pressures and influences”. The majority backed their rationale of this holding with the use of scientific evidence that the underdevelopment of neurological synapses within an adolescent’s mind affects decision making and consequential rationalization that does not allow an adolescent to be culpable to the same degree that an adult would in the same crime. The Supreme Court supported their underlying rationale of *Roper v Simmons* with *Graham v Florida* and *Miller v Alabama*. In both cases, the Court affirmed their view that children have the indistinguishable characteristic of future reform and therefore juvenile offenders should be barred from the most severe convictions. In the specific instance of transferred intent against minors, which Senate Bill 395 looks to address, Justice Breyer directly answers that question in his concurring opinion in *Miller v Alabama*, where he states, “transferred intent is not sufficient to satisfy the intent to murder [and] the ability to consider the full consequences of a course of action and to adjust one’s conduct accordingly is precisely what we know juveniles lack capacity to do effectively”. If the Supreme Court of the United States has held in multiple cases that children are to be completely absolved from the most severe convictions because it violates the constitutional fundamentals of justice, why has Maryland continued to hold juveniles guilty in cases where direct culpability is deficient or completely absent?

As mentioned above, the Supreme Court relied on scientific evidence to support their holdings. Without enacting SB 395, juveniles involved in criminal pursuits can be convicted of first-degree murder, even if they were not the direct actor of the murder. This allows adolescents to be exceptionally vulnerable to the most severe punishments as juveniles tend to commit crimes in groups due to peer pressure. The National Crime Victimization Survey states that close to 40 percent of crimes committed by people ages 12 to 20 have multiple perpetrators, compared with only 5 percent for adults 30 and older. And, according to the American Psychological Association, it has been shown that due to underdeveloped prefrontal cortexes, the presence of peers increases adolescent risk taking because of heightened sensitivity to the potential reward value of risk taking in comparison to adults making similar decisions. To continue to allow children to be convicted of first-degree murder under section a(4) of § 2-201, or cases involving “transferred intent”, is to wrongfully exploit the biological callowness of adolescents to fuel the prison industrial complex.

Finally, without adopting SB395, the criminal justice system will continue to be a predatory vehicle for racial prejudice and injustice. Allowing the conviction of first-degree murder under “transferred intent” for children will disproportionately affect POC communities. According to [childrensdefense.org](http://childrensdefense.org), 67% of children in the juvenile justice system were children of color and black youth represented 54% of youth prosecuted in adult criminal court.



The most notable example of the injustice that is caused by murder felony statutes is the story of Curtis Brooks, a Maryland resident, who was charged with murder at the age of 15. Throughout his adolescence, Brooks struggled to maintain a consistent home and was in search of stability when he left Maryland to reunite with his mother in Colorado. Brooks' mother was battling drug addiction at the time and Brooks soon found himself displaced and finding refuge on garage floors to avoid sleeping on the streets. In an attempt to escape a blizzard, Brooks wandered an arcade and was approached by a group of teenagers who had previously allowed him to sleep on their couch. Feeling a kindred obligation to the group, Brooks agreed to help steal a car in which he would be directed to fire a distraction shot in the air. During the attempted carjacking, it was not Brooks who fired the shot that resulted in murder, but his accomplice who killed the victim. Due to a felony murder statute, the court found that, Brooks, at the age of 15, was convicted of first-degree murder and life in prison, despite having no previous criminal record and not firing the bullet that directly resulted in the murder.

Brooks remained in prison until Joanne C Benson, Brooks' previous elementary school principal, and Abdul Raheem Abdullah, President of Prince George's County Education Coalition, used their personal finances to travel to Colorado and advocate for legislative change. At age 40, Brooks returned to his home of Maryland for the first time in 25 years and is able to enjoy the first steps of freedom. Unfortunately, many children are not as fortunate as Brooks and remain in the prison system under a wrongful conviction. According to Human Rights Watch and Amnesty International, 45 out of 172 of youth offenders surveyed were serving life sentences without parole after being convicted of felony murder.

These children deserve to know freedom, they deserve the chance to reform.

The adoption of Senate Bill 395 will bar wrongful severe sanctions against our youth and allow for the progression we all wish to see in our justice system. I ask the General Assembly to **please adopt Senate Bill 395** which addresses felony murder and enacts limitation provisions and review of convictions for children.

Best,  
**Holly Powell**  
**2308 Cambridge Street**  
**Baltimore, Maryland 21224**  
Showing Up for Racial Justice Baltimore

**Citations:**

- <https://www.marylandmatters.org/2019/07/09/lawmakers-welcome-home-man-sentenced-to-life-as-a-teen/>
- <https://www.distractify.com/p/curtis-brooks-kids-behind-bars>
- <https://theappeal.org/curtis-brooks-felony-murder-life-sentence/?fbclid=IwAR3-zHHXCmQPn066v4nsvsi56rSIC4CbZS4Hn8jLBtENfqZRY92S1tZBUMU#.XRmAjrZ5oFG.twitter>

# **SB 395 - Prohibit Charging Juveniles for First Deg**

Uploaded by: Rehr, Nathan

Position: FAV



Dear Members of the Judicial Proceedings Committee,

This testimony is being submitted by Showing Up for Racial Justice Baltimore, a group of individuals working to move white folks as part of a multi-racial movement for equity and racial justice in Baltimore City and Baltimore County. We are also working in collaboration with Out for Justice. I am a resident of MD District 45. I am an active member of my community association and a health professional who is interested in eliminating the health disparities that occur with racial discrimination in our society. I am testifying in **support of Senate Bill 395**.



**Senate Bill 395**, which prohibits children from being charged with first degree murder in cases where someone incidentally dies in the commission of another felony crime and allows those previously charged with first-degree murder as juveniles in cases like these to have their sentence reduced.

In *State v. Allen*, the Court of Appeals of Maryland held that the felony-murder rule is a legal fiction in which the intent and malice to commit the underlying felony is transferred to elevate an unintentional killing to first degree murder. This holding, as reflected in our current state statutes, does not exclude children from being convicted of first-degree murder under this legal fiction, regardless of actual culpability. The reasoning behind this holding is held in proximate cause theory, which holds defendants accountable for any deaths that should have been “foreseeable” during the crime. The Supreme Court and statistical data on adolescent behavior have reaffirmed that severe convictions against juvenile offenders is not only unconstitutional but strengthens the racially charged “school to prison” pipeline cycle.

The Supreme Court has recognized repeatedly that children and adolescents are the most susceptible to be swept into the current of criminal behavior and taking away the opportunity for reform by enacting the most severe convictions, regardless of intent, violates the 8th Amendment which prohibits cruel and unusual punishments. In *Roper v Simmons*, the Court reasoned in their ruling that “immaturity diminishes [child offenders’] culpability, as does their susceptibility to outside pressures and influences”. The majority backed their rationale of this holding with the use of scientific evidence that the underdevelopment of neurological synapses within an adolescent’s mind affects decision making and consequential rationalization that does not allow an adolescent to be culpable to the same degree that an adult would in the same crime. The Supreme Court supported their underlying rationale of *Roper v Simmons* with *Graham v Florida* and *Miller v Alabama*. In both cases, the Court affirmed their view that children have the indistinguishable characteristic of future reform and therefore juvenile offenders should be barred from the most severe convictions. In the specific instance of transferred intent against minors, which Senate Bill 395 looks to address, Justice Breyer directly answers that question in his concurring opinion in *Miller v Alabama*, where he states, “transferred intent is not sufficient to satisfy the intent to murder [and] the ability to consider the full consequences of a course of action and to adjust one’s conduct accordingly is precisely what we know juveniles lack capacity to do effectively”. If the Supreme Court of the United States has held in multiple cases that children are to be completely absolved from the most severe convictions because it violates the constitutional fundamentals of justice, why has Maryland continued to hold juveniles guilty in cases where direct culpability is deficient or completely absent?

As mentioned above, the Supreme Court relied on scientific evidence to support their holdings. Without enacting SB 395, juveniles involved in criminal pursuits can be convicted of first-degree murder, even if they were not the direct actor of the murder. This allows adolescents to be exceptionally vulnerable to the most severe punishments as juveniles tend to commit crimes in groups due to peer pressure. The National Crime Victimization Survey states that close to 40 percent of crimes committed by people ages 12 to 20 have multiple perpetrators, compared with only 5 percent for adults 30 and older. And, according to the American Psychological Association, it has been shown that due to underdeveloped prefrontal cortexes, the presence of peers increases adolescent risk taking because of heightened sensitivity to the potential reward value of risk taking in comparison to adults making similar decisions. To continue to allow children to be convicted of first-degree murder under section a(4) of § 2-201, or cases involving “transferred intent”, is to wrongfully exploit the biological callowness of adolescents to fuel the prison industrial complex.

Finally, without adopting SB395, the criminal justice system will continue to be a predatory vehicle for racial prejudice and injustice. Allowing the conviction of first-degree murder under “transferred intent” for children will disproportionately affect

POC communities. According to [childrensdefense.org](http://childrensdefense.org), 67% of children in the juvenile justice system were children of color and black youth represented 54% of youth prosecuted in adult criminal court.



The most notable example of the injustice that is caused by murder felony statutes is the story of Curtis Brooks, a Maryland resident, who was charged with murder at the age of 15. Throughout his adolescence, Brooks struggled to maintain a consistent home and was in search of stability when he left Maryland to reunite with his mother in Colorado. Brooks' mother was battling drug addiction at the time and Brooks soon found himself displaced and finding refuge on garage floors to avoid sleeping on the streets. In an attempt to escape a blizzard, Brooks wandered an arcade and was approached by a group of teenagers who had previously allowed him to sleep on their couch. Feeling a kindred obligation to the group, Brooks agreed to help steal a car in which he would be directed to fire a distraction shot in the air. During the attempted carjacking, it was not Brooks who fired the shot that resulted in murder, but his accomplice who killed the victim. Due to a felony murder statute, the court found that, Brooks, at the age of 15, was convicted of first-degree murder and life in prison, despite having no previous criminal record and not firing the bullet that directly resulted in the murder.

Brooks remained in prison until Joanne C Benson, Brooks' previous elementary school principal, and Abdul Raheem Abdullah, President of Prince George's County Education Coalition, used their personal finances to travel to Colorado and advocate for legislative change. At age 40, Brooks returned to his home of Maryland for the first time in 25 years and is able to enjoy the first steps of freedom. Unfortunately, many children are not as fortunate as Brooks and remain in the prison system under a wrongful conviction. According to Human Rights Watch and Amnesty International, 45 out of 172 of youth offenders surveyed were serving life sentences without parole after being convicted of felony murder.

These children deserve to know freedom, they deserve the chance to reform.

The adoption of Senate Bill 395 will bar wrongful severe sanctions against our youth and allow for the progression we all wish to see in our justice system. I ask the General Assembly to **please adopt Senate Bill 395** which addresses felony murder and enacts limitation provisions and review of convictions for children.

Best,

**Nathan Rehr**

**450 E. Federal Street Baltimore, MD 21202**

Showing Up for Racial Justice Baltimore

**Citations:**

- <https://www.marylandmatters.org/2019/07/09/lawmakers-welcome-home-man-sentenced-to-life-as-a-teen/>
- <https://www.distractify.com/p/curtis-brooks-kids-behind-bars>
- <https://theappeal.org/curtis-brooks-felony-murder-life-sentence/?fbclid=IwAR3-zHHXCmQPn066v4nsvsi56rSIC4CbZS4Hn8jLBtENfqZRY92S1tZBUMU#.XRmAjr5oFG.twitter>

# **SB 395 - Prohibit Charging Juveniles for First Deg**

Uploaded by: Rosenthal, Anne

Position: FAV

Dear Members of the Judicial Proceedings Committee,

This testimony is being submitted by Showing Up for Racial Justice Baltimore, a group of individuals working to move white folks as part of a multi-racial movement for equity and racial justice in Baltimore City and Baltimore County. We are also working in collaboration with Out for Justice. I am a resident of MD District 40. I am testifying in **support of Senate Bill 395**.



**Senate Bill 395**, which prohibits children from being charged with first degree murder in cases where someone incidentally dies in the commission of another felony crime and allows those previously charged with first-degree murder as juveniles in cases like these to have their sentence reduced.

In *State v. Allen*, the Court of Appeals of Maryland held that the felony-murder rule is a legal fiction in which the intent and malice to commit the underlying felony is transferred to elevate an unintentional killing to first degree murder. This holding, as reflected in our current state statutes, does not exclude children from being convicted of first-degree murder under this legal fiction, regardless of actual culpability. The reasoning behind this holding is held in proximate cause theory, which holds defendants accountable for any deaths that should have been “foreseeable” during the crime. The Supreme Court and statistical data on adolescent behavior have reaffirmed that severe convictions against juvenile offenders is not only unconstitutional but strengthens the racially charged “school to prison” pipeline cycle.

The Supreme Court has recognized repeatedly that children and adolescents are the most susceptible to be swept into the current of criminal behavior and taking away the opportunity for reform by enacting the most severe convictions, regardless of intent, violates the 8th Amendment which prohibits cruel and unusual punishments. In *Roper v Simmons*, the Court reasoned in their ruling that “immaturity diminishes [child offenders] culpability, as does their susceptibility to outside pressures and influences”. The majority backed their rationale of this holding with the use of scientific evidence that the underdevelopment of neurological synapses within an adolescent's mind affects decision making and consequential rationalization that does not allow an adolescent to be culpable to the same degree that an adult would in the same crime. The Supreme Court supported their underlying rationale of *Roper v Simmons* with *Graham v Florida* and *Miller v Alabama*. In both cases, the Court affirmed their view that children have the indistinguishable characteristic of future reform and therefore juvenile offenders should be barred from the most severe convictions. In the specific instance of transferred intent against minors, which Senate Bill 395 looks to address, Justice Breyer directly answers that question in his concurring opinion in *Miller v Alabama*, where he states, “transferred intent is not sufficient to satisfy the intent to murder [and] the ability to consider the full consequences of a course of action and to adjust one’s conduct accordingly is precisely what we know juveniles lack capacity to do effectively”. If the Supreme Court of the United States has held in multiple cases that children are to be completely absolved from the most severe convictions because it violates the constitutional fundamentals of justice, why has Maryland continued to hold juveniles guilty in cases where direct culpability is deficient or completely absent?

As mentioned above, the Supreme Court relied on scientific evidence to support their holdings. Without enacting SB 395, juveniles involved in criminal pursuits can be convicted of first-degree murder, even if they were not the direct actor of the murder. This allows adolescents to be exceptionally vulnerable to the most severe punishments as juveniles tend to commit crimes in groups due to peer pressure. The National Crime Victimization Survey states that close to 40 percent of crimes committed by people ages 12 to 20 have multiple perpetrators, compared with only 5 percent for adults 30 and older. And, according to the American Psychological Association, it has been shown that due to underdeveloped prefrontal cortexes, the presence of peers increases adolescent risk taking because of heightened sensitivity to the potential reward value of risk taking in comparison to adults making similar decisions. To continue to allow children to be convicted of first-degree murder under section a(4) of § 2-201, or cases involving “transferred intent”, is to wrongfully exploit the biological callowness of adolescents to fuel the prison industrial complex.

Finally, without adopting SB395, the criminal justice system will continue to be a predatory vehicle for racial prejudice and injustice. Allowing the conviction of first-degree murder under “transferred intent” for children will disproportionately affect POC communities. According to [childrensdefense.org](http://childrensdefense.org), 67% of children in the juvenile justice system were children of color and black youth represented 54% of youth prosecuted in adult criminal court.



The most notable example of the injustice that is caused by murder felony statutes is the story of Curtis Brooks, a Maryland resident, who was charged with murder at the age of 15. Throughout his adolescence, Brooks struggled to maintain a consistent home and was in search of stability when he left Maryland to reunite with his mother in Colorado. Brooks' mother was battling drug addiction at the time and Brooks soon found himself displaced and finding refuge on garage floors to avoid sleeping on the streets. In an attempt to escape a blizzard, Brooks wandered an arcade and was approached by a group of teenagers who had previously allowed him to sleep on their couch. Feeling a kindred obligation to the group, Brooks agreed to help steal a car in which he would be directed to fire a distraction shot in the air. During the attempted carjacking, it was not Brooks who fired the shot that resulted in murder, but his accomplice who killed the victim. Due to a felony murder statute, the court found that, Brooks, at the age of 15, was convicted of first-degree murder and life in prison, despite having no previous criminal record and not firing the bullet that directly resulted in the murder.

Brooks remained in prison until Joanne C Benson, Brooks' previous elementary school principal, and Abdul Raheem Abdullah, President of Prince George's County Education Coalition, used their personal finances to travel to Colorado and advocate for legislative change. At age 40, Brooks returned to his home of Maryland for the first time in 25 years and is able to enjoy the first steps of freedom. Unfortunately, many children are not as fortunate as Brooks and remain in the prison system under a wrongful conviction. According to Human Rights Watch and Amnesty International, 45 out of 172 of youth offenders surveyed were serving life sentences without parole after being convicted of felony murder.

These children deserve to know freedom, they deserve the chance to reform.

The adoption of Senate Bill 395 will bar wrongful severe sanctions against our youth and allow for the progression we all wish to see in our justice system. I ask the General Assembly to **please adopt Senate Bill 395** which addresses felony murder and enacts limitation provisions and review of convictions for children.

Best,

**Anne Rosenthal**  
**810 Cathedral St, Baltimore, MD 21201**  
Showing Up for Racial Justice Baltimore

**Citations:**

- <https://www.marylandmatters.org/2019/07/09/lawmakers-welcome-home-man-sentenced-to-life-as-a-teen/>
- <https://www.distractify.com/p/curtis-brooks-kids-behind-bars>
- <https://theappeal.org/curtis-brooks-felony-murder-life-sentence/?fbclid=IwAR3-zHHXCmQPn066v4nsvsi56rSIC4CbZS4Hn8jLBtENfqZRY92S1tZBUMU#.XRmAjr5oFG.twitter>

# **SB 395 - Prohibit Charging Juveniles for First Deg**

Uploaded by: Schmitz, Martha

Position: FAV

Dear Members of the Judicial Proceedings Committee,

This testimony is being submitted by Showing Up for Racial Justice Baltimore, a group of individuals working to move white folks as part of a multi-racial movement for equity and racial justice in Baltimore City and Baltimore County. We are also working in collaboration with Out for Justice. I am a resident of MD District 42B. I am testifying in **support of Senate Bill 395**.



**Senate Bill 395**, which prohibits children from being charged with first degree murder in cases where someone incidentally dies in the commission of another felony crime and allows those previously charged with first-degree murder as juveniles in cases like these to have their sentence reduced.

In *State v. Allen*, the Court of Appeals of Maryland held that the felony-murder rule is a legal fiction in which the intent and malice to commit the underlying felony is transferred to elevate an unintentional killing to first degree murder. This holding, as reflected in our current state statutes, does not exclude children from being convicted of first-degree murder under this legal fiction, regardless of actual culpability. The reasoning behind this holding is held in proximate cause theory, which holds defendants accountable for any deaths that should have been “foreseeable” during the crime. The Supreme Court and statistical data on adolescent behavior have reaffirmed that severe convictions against juvenile offenders is not only unconstitutional but strengthens the racially charged “school to prison” pipeline cycle.

The Supreme Court has recognized repeatedly that children and adolescents are the most susceptible to be swept into the current of criminal behavior and taking away the opportunity for reform by enacting the most severe convictions, regardless of intent, violates the 8th Amendment which prohibits cruel and unusual punishments. In *Roper v Simmons*, the Court reasoned in their ruling that “immaturity diminishes [child offenders’] culpability, as does their susceptibility to outside pressures and influences”. The majority backed their rationale of this holding with the use of scientific evidence that the underdevelopment of neurological synapses within an adolescent’s mind affects decision making and consequential rationalization that does not allow an adolescent to be culpable to the same degree that an adult would in the same crime. The Supreme Court supported their underlying rationale of *Roper v Simmons* with *Graham v Florida* and *Miller v Alabama*. In both cases, the Court affirmed their view that children have the indistinguishable characteristic of future reform and therefore juvenile offenders should be barred from the most severe convictions. In the specific instance of transferred intent against minors, which Senate Bill 395 looks to address, Justice Breyer directly answers that question in his concurring opinion in *Miller v Alabama*, where he states, “transferred intent is not sufficient to satisfy the intent to murder [and] the ability to consider the full consequences of a course of action and to adjust one’s conduct accordingly is precisely what we know juveniles lack capacity to do effectively”. If the Supreme Court of the United States has held in multiple cases that children are to be completely absolved from the most severe convictions because it violates the constitutional fundamentals of justice, why has Maryland continued to hold juveniles guilty in cases where direct culpability is deficient or completely absent?

As mentioned above, the Supreme Court relied on scientific evidence to support their holdings. Without enacting SB 395, juveniles involved in criminal pursuits can be convicted of first-degree murder, even if they were not the direct actor of the murder. This allows adolescents to be exceptionally vulnerable to the most severe punishments as juveniles tend to commit crimes in groups due to peer pressure. The National Crime Victimization Survey states that close to 40 percent of crimes committed by people ages 12 to 20 have multiple perpetrators, compared with only 5 percent for adults 30 and older. And, according to the American Psychological Association, it has been shown that due to underdeveloped prefrontal cortexes, the presence of peers increases adolescent risk taking because of heightened sensitivity to the potential reward value of risk taking in comparison to adults making similar decisions. To continue to allow children to be convicted of first-degree murder under section a(4) of § 2-201, or cases involving “transferred intent”, is to wrongfully exploit the biological callowness of adolescents to fuel the prison industrial complex.

Finally, without adopting SB395, the criminal justice system will continue to be a predatory vehicle for racial prejudice and injustice. Allowing the conviction of first-degree murder under “transferred intent” for children will disproportionately affect POC communities. According to [childrensdefense.org](http://childrensdefense.org), 67% of children in the juvenile justice system were children of color and black youth represented 54% of youth prosecuted in adult criminal court.



The most notable example of the injustice that is caused by murder felony statutes is the story of Curtis Brooks, a Maryland resident, who was charged with murder at the age of 15. Throughout his adolescence, Brooks struggled to maintain a consistent home and was in search of stability when he left Maryland to reunite with his mother in Colorado. Brooks' mother was battling drug addiction at the time and Brooks soon found himself displaced and finding refuge on garage floors to avoid sleeping on the streets. In an attempt to escape a blizzard, Brooks wandered an arcade and was approached by a group of teenagers who had previously allowed him to sleep on their couch. Feeling a kindred obligation to the group, Brooks agreed to help steal a car in which he would be directed to fire a distraction shot in the air. During the attempted carjacking, it was not Brooks who fired the shot that resulted in murder, but his accomplice who killed the victim. Due to a felony murder statute, the court found that, Brooks, at the age of 15, was convicted of first-degree murder and life in prison, despite having no previous criminal record and not firing the bullet that directly resulted in the murder.

Brooks remained in prison until Joanne C Benson, Brooks' previous elementary school principal, and Abdul Raheem Abdullah, President of Prince George's County Education Coalition, used their personal finances to travel to Colorado and advocate for legislative change. At age 40, Brooks returned to his home of Maryland for the first time in 25 years and is able to enjoy the first steps of freedom. Unfortunately, many children are not as fortunate as Brooks and remain in the prison system under a wrongful conviction. According to Human Rights Watch and Amnesty International, 45 out of 172 of youth offenders surveyed were serving life sentences without parole after being convicted of felony murder.

These children deserve to know freedom, they deserve the chance to reform.

The adoption of Senate Bill 395 will bar wrongful severe sanctions against our youth and allow for the progression we all wish to see in our justice system. I ask the General Assembly to **please adopt Senate Bill 395** which addresses felony murder and enacts limitation provisions and review of convictions for children.

Best,  
Martha Schmitz  
14 Greentree Dr.  
Phoenix, MD 21131  
Showing Up for Racial Justice Baltimore

**Citations:**

- <https://www.marylandmatters.org/2019/07/09/lawmakers-welcome-home-man-sentenced-to-life-as-a-teen/>
- <https://www.distractify.com/p/curtis-brooks-kids-behind-bars>
- <https://theappeal.org/curtis-brooks-felony-murder-life-sentence/?fbclid=IwAR3-zHHXCmQPn066v4nsvsi56rSIC4CbZS4Hn8jLBtENfqZRY92S1tZBUMU#.XRmAjrZ5oFG.twitter>



# **SB 395 - Prohibit Charging Juveniles for First Deg**

Uploaded by: Seel, Brian

Position: FAV

Dear Members of the Judicial Proceedings Committee,

This testimony is being submitted by District 46 members of Showing Up for Racial Justice Baltimore, a group of individuals working to move white folks as part of a multi-racial movement for equity and racial justice in Baltimore City and Baltimore County. We are also working in collaboration with Out for Justice. We are residents of MD District 46, and we are testifying in **support of Senate Bill 395**.



**Senate Bill 395**, which prohibits children from being charged with first degree murder in cases where someone incidentally dies in the commission of another felony crime and allows those previously charged with first-degree murder as juveniles in cases like these to have their sentence reduced.

In *State v. Allen*, the Court of Appeals of Maryland held that the felony-murder rule is a legal fiction in which the intent and malice to commit the underlying felony is transferred to elevate an unintentional killing to first degree murder. This holding, as reflected in our current state statutes, does not exclude children from being convicted of first-degree murder under this legal fiction, regardless of actual culpability. The reasoning behind this holding is held in proximate cause theory, which holds defendants accountable for any deaths that should have been “foreseeable” during the crime. The Supreme Court and statistical data on adolescent behavior have reaffirmed that severe convictions against juvenile offenders is not only unconstitutional but strengthens the racially charged “school to prison” pipeline cycle.

The Supreme Court has recognized repeatedly that children and adolescents are the most susceptible to be swept into the current of criminal behavior and taking away the opportunity for reform by enacting the most severe convictions, regardless of intent, violates the 8th Amendment which prohibits cruel and unusual punishments. In *Roper v Simmons*, the Court reasoned in their ruling that “immaturity diminishes [child offenders’] culpability, as does their susceptibility to outside pressures and influences”. The majority backed their rationale of this holding with the use of scientific evidence that the underdevelopment of neurological synapses within an adolescent’s mind affects decision making and consequential rationalization that does not allow an adolescent to be culpable to the same degree that an adult would in the same crime. The Supreme Court supported their underlying rationale of *Roper v Simmons* with *Graham v Florida* and *Miller v Alabama*. In both cases, the Court affirmed their view that children have the indistinguishable characteristic of future reform and therefore juvenile offenders should be barred from the most severe convictions. In the specific instance of transferred intent against minors, which Senate Bill 395 looks to address, Justice Breyer directly answers that question in his concurring opinion in *Miller v Alabama*, where he states, “transferred intent is not sufficient to satisfy the intent to murder [and] the ability to consider the full consequences of a course of action and to adjust one’s conduct accordingly is precisely what we know juveniles lack capacity to do effectively”. If the Supreme Court of the United States has held in multiple cases that children are to be completely absolved from the most severe convictions because it violates the constitutional fundamentals of justice, why has Maryland continued to hold juveniles guilty in cases where direct culpability is deficient or completely absent?

As mentioned above, the Supreme Court relied on scientific evidence to support their holdings. Without enacting SB 395, juveniles involved in criminal pursuits can be convicted of first-degree murder, even if they were not the direct actor of the murder. This allows adolescents to be exceptionally vulnerable to the most severe punishments as juveniles tend to commit crimes in groups due to peer pressure. The National Crime Victimization Survey states that close to 40 percent of crimes committed by people ages 12 to 20 have multiple perpetrators, compared with only 5 percent for adults 30 and older. And, according to the American Psychological Association, it has been shown that due to underdeveloped prefrontal cortexes, the presence of peers increases adolescent risk taking because of heightened sensitivity to the potential reward value of risk taking in comparison to adults making similar decisions. To continue to allow children to be convicted of first-degree murder under section a(4) of § 2-201, or cases involving “transferred intent”, is to wrongfully exploit the biological callowness of adolescents to fuel the prison industrial complex.

Finally, without adopting SB395, the criminal justice system will continue to be a predatory vehicle for racial prejudice and injustice. Allowing the conviction of first-degree murder under “transferred intent” for children will disproportionately affect POC communities. According to [childrensdefense.org](http://childrensdefense.org), 67% of children in the juvenile justice system were children of color and black youth represented 54% of youth prosecuted in adult criminal court.



The most notable example of the injustice that is caused by murder felony statutes is the story of Curtis Brooks, a Maryland resident, who was charged with murder at the age of 15. Throughout his adolescence, Brooks struggled to maintain a consistent home and was in search of stability when he left Maryland to reunite with his mother in Colorado. Brooks' mother was battling drug addiction at the time and Brooks soon found himself displaced and finding refuge on garage floors to avoid sleeping on the streets. In an attempt to escape a blizzard, Brooks wandered an arcade and was approached by a group of teenagers who had previously allowed him to sleep on their couch. Feeling a kindred obligation to the group, Brooks agreed to help steal a car in which he would be directed to fire a distraction shot in the air. During the attempted carjacking, it was not Brooks who fired the shot that resulted in murder, but his accomplice who killed the victim. Due to a felony murder statute, the court found that, Brooks, at the age of 15, was convicted of first-degree murder and life in prison, despite having no previous criminal record and not firing the bullet that directly resulted in the murder.

Brooks remained in prison until Joanne C Benson, Brooks' previous elementary school principal, and Abdul Raheem Abdullah, President of Prince George's County Education Coalition, used their personal finances to travel to Colorado and advocate for legislative change. At age 40, Brooks returned to his home of Maryland for the first time in 25 years and is able to enjoy the first steps of freedom. Unfortunately, many children are not as fortunate as Brooks and remain in the prison system under a wrongful conviction. According to Human Rights Watch and Amnesty International, 45 out of 172 of youth offenders surveyed were serving life sentences without parole after being convicted of felony murder.

These children deserve to know freedom, they deserve the chance to reform.

The adoption of Senate Bill 395 will bar wrongful severe sanctions against our youth and allow for the progression we all wish to see in our justice system. I ask the General Assembly to **please adopt Senate Bill 395** which addresses felony murder and enacts limitation provisions and review of convictions for children.

Best,

SURJ District 46 Community Leaders  
Sarah Goldman  
Christina Pham Linhoff  
Ben Goldberg  
Liz Simon-Higgs  
Brian Seel  
Lilly Chappa  
Natalia Skolnik

Showing Up for Racial Justice Baltimore

**Citations:**

- <https://www.marylandmatters.org/2019/07/09/lawmakers-welcome-home-man-sentenced-to-life-as-a-teen/>
- <https://www.distractify.com/p/curtis-brooks-kids-behind-bars>
- <https://theappeal.org/curtis-brooks-felony-murder-life-sentence/?fbclid=IwAR3-zHHXCmQPn066v4nsvsi56rSIC4CbZS4Hn8jLbTENfqZRY92S1tZBUMU#.XRmAjr5oFG.twitter>

# **SB 395 - Prohibit Charging Juveniles for First Deg**

Uploaded by: Shillenn, Rebecca

Position: FAV

Dear Members of the Judicial Proceedings Committee,

This testimony is being submitted by Showing Up for Racial Justice Baltimore, a group of individuals working to move white folks as part of a multi-racial movement for equity and racial justice in Baltimore City and Baltimore County. We are also working in collaboration with Out for Justice. I am a resident of MD District 43, and a volunteer with the Thread mentoring program that works at Dunbar High School. I am testifying in **support of Senate Bill 395**.



**Senate Bill 395**, which prohibits children from being charged with first degree murder in cases where someone incidentally dies in the commission of another felony crime and allows those previously charged with first-degree murder as juveniles in cases like these to have their sentence reduced.

In *State v. Allen*, the Court of Appeals of Maryland held that the felony-murder rule is a legal fiction in which the intent and malice to commit the underlying felony is transferred to elevate an unintentional killing to first degree murder. This holding, as reflected in our current state statutes, does not exclude children from being convicted of first-degree murder under this legal fiction, regardless of actual culpability. The reasoning behind this holding is held in proximate cause theory, which holds defendants accountable for any deaths that should have been “foreseeable” during the crime. The Supreme Court and statistical data on adolescent behavior have reaffirmed that severe convictions against juvenile offenders is not only unconstitutional but strengthens the racially charged “school to prison” pipeline cycle.

The Supreme Court has recognized repeatedly that children and adolescents are the most susceptible to be swept into the current of criminal behavior and taking away the opportunity for reform by enacting the most severe convictions, regardless of intent, violates the 8th Amendment which prohibits cruel and unusual punishments. In *Roper v Simmons*, the Court reasoned in their ruling that “immaturity diminishes [child offenders’] culpability, as does their susceptibility to outside pressures and influences”. The majority backed their rationale of this holding with the use of scientific evidence that the underdevelopment of neurological synapses within an adolescent’s mind affects decision making and consequential rationalization that does not allow an adolescent to be culpable to the same degree that an adult would in the same crime. The Supreme Court supported their underlying rationale of *Roper v Simmons* with *Graham v Florida* and *Miller v Alabama*. In both cases, the Court affirmed their view that children have the indistinguishable characteristic of future reform and therefore juvenile offenders should be barred from the most severe convictions. In the specific instance of transferred intent against minors, which Senate Bill 395 looks to address, Justice Breyer directly answers that question in his concurring opinion in *Miller v Alabama*, where he states, “transferred intent is not sufficient to satisfy the intent to murder [and] the ability to consider the full consequences of a course of action and to adjust one’s conduct accordingly is precisely what we know juveniles lack capacity to do effectively”. If the Supreme Court of the United States has held in multiple cases that children are to be completely absolved from the most severe convictions because it violates the constitutional fundamentals of justice, why has Maryland continued to hold juveniles guilty in cases where direct culpability is deficient or completely absent?

As mentioned above, the Supreme Court relied on scientific evidence to support their holdings. Without enacting SB 395, juveniles involved in criminal pursuits can be convicted of first-degree murder, even if they were not the direct actor of the murder. This allows adolescents to be exceptionally vulnerable to the most severe punishments as juveniles tend to commit crimes in groups due to peer pressure. The National Crime Victimization Survey states that close to 40 percent of crimes committed by people ages 12 to 20 have multiple perpetrators, compared with only 5 percent for adults 30 and older. And, according to the American Psychological Association, it has been shown that due to underdeveloped prefrontal cortexes, the presence of peers increases adolescent risk taking because of heightened sensitivity to the potential reward value of risk taking in comparison to adults making similar decisions. To continue to allow children to be convicted of first-degree murder under section a(4) of § 2-201, or cases involving “transferred intent”, is to wrongfully exploit the biological callowness of adolescents to fuel the prison industrial complex.

Finally, without adopting SB395, the criminal justice system will continue to be a predatory vehicle for racial prejudice and injustice. Allowing the conviction of first-degree murder under “transferred intent” for children will disproportionately affect POC communities. According to [childrensdefense.org](http://childrensdefense.org), 67% of children in the juvenile justice system were children of color and black youth represented 54% of youth prosecuted in adult criminal court.



The most notable example of the injustice that is caused by murder felony statutes is the story of Curtis Brooks, a Maryland resident, who was charged with murder at the age of 15. Throughout his adolescence, Brooks struggled to maintain a consistent home and was in search of stability when he left Maryland to reunite with his mother in Colorado. Brooks' mother was battling drug addiction at the time and Brooks soon found himself displaced and finding refuge on garage floors to avoid sleeping on the streets. In an attempt to escape a blizzard, Brooks wandered an arcade and was approached by a group of teenagers who had previously allowed him to sleep on their couch. Feeling a kindred obligation to the group, Brooks agreed to help steal a car in which he would be directed to fire a distraction shot in the air. During the attempted carjacking, it was not Brooks who fired the shot that resulted in murder, but his accomplice who killed the victim. Due to a felony murder statute, the court found that, Brooks, at the age of 15, was convicted of first-degree murder and life in prison, despite having no previous criminal record and not firing the bullet that directly resulted in the murder.

Brooks remained in prison until Joanne C Benson, Brooks' previous elementary school principal, and Abdul Raheem Abdullah, President of Prince George's County Education Coalition, used their personal finances to travel to Colorado and advocate for legislative change. At age 40, Brooks returned to his home of Maryland for the first time in 25 years and is able to enjoy the first steps of freedom. Unfortunately, many children are not as fortunate as Brooks and remain in the prison system under a wrongful conviction. According to Human Rights Watch and Amnesty International, 45 out of 172 of youth offenders surveyed were serving life sentences without parole after being convicted of felony murder.

These children deserve to know freedom, they deserve the chance to reform.

The adoption of Senate Bill 395 will bar wrongful severe sanctions against our youth and allow for the progression we all wish to see in our justice system. I ask the General Assembly to **please adopt Senate Bill 395** which addresses felony murder and enacts limitation provisions and review of convictions for children.

Best,  
Rebecca Shillenn  
5401 Elsrode Avenue Baltimore 21214  
Showing Up for Racial Justice Baltimore

**Citations:**

- <https://www.marylandmatters.org/2019/07/09/lawmakers-welcome-home-man-sentenced-to-life-as-a-teen/>
- <https://www.distractify.com/p/curtis-brooks-kids-behind-bars>
- <https://theappeal.org/curtis-brooks-felony-murder-life-sentence/?fbclid=IwAR3-zHHXCmQPn066v4nsvsi56rSIC4CbZS4Hn8jLBtENfqZRY92S1tZBUMU#.XRmAJrz5oFG.twitter>

# **SB 395 - Prohibit Charging Juveniles for First Deg**

Uploaded by: Shock, Jack

Position: FAV

Dear Members of the Judicial Proceedings Committee,

This testimony is being submitted by Showing Up for Racial Justice Baltimore, a group of individuals working to move white folks as part of a multi-racial movement for equity and racial justice in Baltimore City and Baltimore County. We are also working in collaboration with Out for Justice. I am a resident of MD District 41. I am testifying in **support of Senate Bill 395**.



**Senate Bill 395**, which prohibits children from being charged with first degree murder in cases where someone incidentally dies in the commission of another felony crime and allows those previously charged with first-degree murder as juveniles in cases like these to have their sentence reduced.

In *State v. Allen*, the Court of Appeals of Maryland held that the felony-murder rule is a legal fiction in which the intent and malice to commit the underlying felony is transferred to elevate an unintentional killing to first degree murder. This holding, as reflected in our current state statutes, does not exclude children from being convicted of first-degree murder under this legal fiction, regardless of actual culpability. The reasoning behind this holding is held in proximate cause theory, which holds defendants accountable for any deaths that should have been “foreseeable” during the crime. The Supreme Court and statistical data on adolescent behavior have reaffirmed that severe convictions against juvenile offenders is not only unconstitutional but strengthens the racially charged “school to prison” pipeline cycle.

The Supreme Court has recognized repeatedly that children and adolescents are the most susceptible to be swept into the current of criminal behavior and taking away the opportunity for reform by enacting the most severe convictions, regardless of intent, violates the 8th Amendment which prohibits cruel and unusual punishments. In *Roper v Simmons*, the Court reasoned in their ruling that “immaturity diminishes [child offenders’] culpability, as does their susceptibility to outside pressures and influences”. The majority backed their rationale of this holding with the use of scientific evidence that the underdevelopment of neurological synapses within an adolescent’s mind affects decision making and consequential rationalization that does not allow an adolescent to be culpable to the same degree that an adult would in the same crime. The Supreme Court supported their underlying rationale of *Roper v Simmons* with *Graham v Florida* and *Miller v Alabama*. In both cases, the Court affirmed their view that children have the indistinguishable characteristic of future reform and therefore juvenile offenders should be barred from the most severe convictions. In the specific instance of transferred intent against minors, which Senate Bill 395 looks to address, Justice Breyer directly answers that question in his concurring opinion in *Miller v Alabama*, where he states, “transferred intent is not sufficient to satisfy the intent to murder [and] the ability to consider the full consequences of a course of action and to adjust one’s conduct accordingly is precisely what we know juveniles lack capacity to do effectively”. If the Supreme Court of the United States has held in multiple cases that children are to be completely absolved from the most severe convictions because it violates the constitutional fundamentals of justice, why has Maryland continued to hold juveniles guilty in cases where direct culpability is deficient or completely absent?

As mentioned above, the Supreme Court relied on scientific evidence to support their holdings. Without enacting SB 395, juveniles involved in criminal pursuits can be convicted of first-degree murder, even if they were not the direct actor of the murder. This allows adolescents to be exceptionally vulnerable to the most severe punishments as juveniles tend to commit crimes in groups due to peer pressure. The National Crime Victimization Survey states that close to 40 percent of crimes committed by people ages 12 to 20 have multiple perpetrators, compared with only 5 percent for adults 30 and older. And, according to the American Psychological Association, it has been shown that due to underdeveloped prefrontal cortexes, the presence of peers increases adolescent risk taking because of heightened sensitivity to the potential reward value of risk taking in comparison to adults making similar decisions. To continue to allow children to be convicted of first-degree murder under section a(4) of § 2-201, or cases involving “transferred intent”, is to wrongfully exploit the biological callowness of adolescents to fuel the prison industrial complex.

Finally, without adopting SB395, the criminal justice system will continue to be a predatory vehicle for racial prejudice and injustice. Allowing the conviction of first-degree murder under “transferred intent” for children will disproportionately affect POC communities. According to [childrensdefense.org](http://childrensdefense.org), 67% of children in the juvenile justice system were children of color and black youth represented 54% of youth prosecuted in adult criminal court.



The most notable example of the injustice that is caused by murder felony statutes is the story of Curtis Brooks, a Maryland resident, who was charged with murder at the age of 15. Throughout his adolescence, Brooks struggled to maintain a consistent home and was in search of stability when he left Maryland to reunite with his mother in Colorado. Brooks' mother was battling drug addiction at the time and Brooks soon found himself displaced and finding refuge on garage floors to avoid sleeping on the streets. In an attempt to escape a blizzard, Brooks wandered an arcade and was approached by a group of teenagers who had previously allowed him to sleep on their couch. Feeling a kindred obligation to the group, Brooks agreed to help steal a car in which he would be directed to fire a distraction shot in the air. During the attempted carjacking, it was not Brooks who fired the shot that resulted in murder, but his accomplice who killed the victim. Due to a felony murder statute, the court found that, Brooks, at the age of 15, was convicted of first-degree murder and life in prison, despite having no previous criminal record and not firing the bullet that directly resulted in the murder.



Brooks remained in prison until Joanne C Benson, Brooks' previous elementary school principal, and Abdul Raheem Abdullah, President of Prince George's County Education Coalition, used their personal finances to travel to Colorado and advocate for legislative change. At age 40, Brooks returned to his home of Maryland for the first time in 25 years and is able to enjoy the first steps of freedom. Unfortunately, many children are not as fortunate as Brooks and remain in the prison system under a wrongful conviction. According to Human Rights Watch and Amnesty International, 45 out of 172 of youth offenders surveyed were serving life sentences without parole after being convicted of felony murder.

These children deserve to know freedom, they deserve the chance to reform.

The adoption of Senate Bill 395 will bar wrongful severe sanctions against our youth and allow for the progression we all wish to see in our justice system. I ask the General Assembly to **please adopt Senate Bill 395** which addresses felony murder and enacts limitation provisions and review of convictions for children.

Best,  
Jack Shock  
4444 La Plata Ave.  
Baltimore, MD 21211  
Showing Up for Racial Justice Baltimore

**Citations:**

- <https://www.marylandmatters.org/2019/07/09/lawmakers-welcome-home-man-sentenced-to-life-as-a-teen/>
- <https://www.distractify.com/p/curtis-brooks-kids-behind-bars>
- [https://theappeal.org/curtis-brooks-felony-murder-life-sentence/?fbclid=IwAR3-zHHXCmQPn066v4nsvsi56rSIC4CbZS4Hn8jL\\_BtENfqZRY92S1tZBUMU#.XRmAjr5oFG.twitter](https://theappeal.org/curtis-brooks-felony-murder-life-sentence/?fbclid=IwAR3-zHHXCmQPn066v4nsvsi56rSIC4CbZS4Hn8jL_BtENfqZRY92S1tZBUMU#.XRmAjr5oFG.twitter)

# **SB 395 - Prohibit Charging Juveniles for First Deg**

Uploaded by: Simmons, Christina

Position: FAV

Dear Members of the Judicial Proceedings Committee,

This testimony is being submitted by Showing Up for Racial Justice Baltimore, a group of individuals working to move white folks as part of a multi-racial movement for equity and racial justice in Baltimore City and Baltimore County. We are also working in collaboration with Out for Justice. I am a resident of MD District 42A. I am a child care worker and graduated with a Bachelors to Family and Human Services with a track in Services to Children and Youth. It makes me so angry that children are tried as adults when it is evident that their brain is not fully developed. Why have a juvenile court in the first place if you're going to charge children with adult sentences? That is why I am testifying in **support of Senate Bill 395**.



**Senate Bill 395**, which prohibits children from being charged with first degree murder in cases where someone incidentally dies in the commission of another felony crime and allows those previously charged with first-degree murder as juveniles in cases like these to have their sentence reduced.

In *State v. Allen*, the Court of Appeals of Maryland held that the felony-murder rule is a legal fiction in which the intent and malice to commit the underlying felony is transferred to elevate an unintentional killing to first degree murder. This holding, as reflected in our current state statutes, does not exclude children from being convicted of first-degree murder under this legal fiction, regardless of actual culpability. The reasoning behind this holding is held in proximate cause theory, which holds defendants accountable for any deaths that should have been “foreseeable” during the crime. The Supreme Court and statistical data on adolescent behavior have reaffirmed that severe convictions against juvenile offenders is not only unconstitutional but strengthens the racially charged “school to prison” pipeline cycle.

The Supreme Court has recognized repeatedly that children and adolescents are the most susceptible to be swept into the current of criminal behavior and taking away the opportunity for reform by enacting the most severe convictions, regardless of intent, violates the 8th Amendment which prohibits cruel and unusual punishments. In *Roper v Simmons*, the Court reasoned in their ruling that “immaturity diminishes [child offenders’] culpability, as does their susceptibility to outside pressures and influences”. The majority backed their rationale of this holding with the use of scientific evidence that the underdevelopment of neurological synapses within an adolescent’s mind affects decision making and consequential rationalization that does not allow an adolescent to be culpable to the same degree that an adult would in the same crime. The Supreme Court supported their underlying rationale of *Roper v Simmons* with *Graham v Florida* and *Miller v Alabama*. In both cases, the Court affirmed their view that children have the indistinguishable characteristic of future reform and therefore juvenile offenders should be barred from the most severe convictions. In the specific instance of transferred intent against minors, which Senate Bill 395 looks to address, Justice Breyer directly answers that question in his concurring opinion in *Miller v Alabama*, where he states, “transferred intent is not sufficient to satisfy the intent to murder [and] the ability to consider the full consequences of a course of action and to adjust one’s conduct accordingly is precisely what we know juveniles lack capacity to do effectively”. If the Supreme Court of the United States has held in multiple cases that children are to be completely absolved from the most severe convictions because it violates the constitutional fundamentals of justice, why has Maryland continued to hold juveniles guilty in cases where direct culpability is deficient or completely absent?

As mentioned above, the Supreme Court relied on scientific evidence to support their holdings. Without enacting SB 395, juveniles involved in criminal pursuits can be convicted of first-degree murder, even if they were not the direct actor of the murder. This allows adolescents to be exceptionally vulnerable to the most severe punishments as juveniles tend to commit crimes in groups due to peer pressure. The National Crime Victimization Survey states that close to 40 percent of crimes committed by people ages 12 to 20 have multiple perpetrators, compared with only 5 percent for adults 30 and older. And, according to the American Psychological Association, it has been shown that due to underdeveloped prefrontal cortexes, the presence of peers increases adolescent risk taking because of heightened sensitivity to the potential reward value of risk taking in comparison to adults making similar decisions. To continue to allow children to be convicted of first-degree murder under section a(4) of § 2-201, or cases involving “transferred intent”, is to wrongfully exploit the biological callowness of adolescents to fuel the prison industrial complex.

Finally, without adopting SB395, the criminal justice system will continue to be a predatory vehicle for racial prejudice and injustice. Allowing the conviction of first-degree murder under “transferred intent” for children will disproportionately affect POC communities. According to [childrensdefense.org](http://childrensdefense.org), 67% of children in the juvenile justice system were children of color and black youth represented 54% of youth prosecuted in adult criminal court.



The most notable example of the injustice that is caused by murder felony statutes is the story of Curtis Brooks, a Maryland resident, who was charged with murder at the age of 15. Throughout his adolescence, Brooks struggled to maintain a consistent home and was in search of stability when he left Maryland to reunite with his mother in Colorado. Brooks’ mother was battling drug addiction at the time and Brooks soon found himself displaced and finding refuge on garage floors to avoid sleeping on the streets. In an attempt to escape a blizzard, Brooks wandered an arcade and was approached by a group of teenagers who had previously allowed him to sleep on their couch. Feeling a kindred obligation to the group, Brooks agreed to help steal a car in which he would be directed to fire a distraction shot in the air. During the attempted carjacking, it was not Brooks who fired the shot that resulted in murder, but his accomplice who killed the victim. Due to a felony murder statute, the court found that, Brooks, at the age of 15, was convicted of first-degree murder and life in prison, despite having no previous criminal record and not firing the bullet that directly resulted in the murder.

Brooks remained in prison until Joanne C Benson, Brooks’ previous elementary school principal, and Abdul Raheem Abdullah, President of Prince George’s County Education Coalition, used their personal finances to travel to Colorado and advocate for legislative change. At age 40, Brooks returned to his home of Maryland for the first time in 25 years and is able to enjoy the first steps of freedom. Unfortunately, many children are not as fortunate as Brooks and remain in the prison system under a wrongful conviction. According to Human Rights Watch and Amnesty International, 45 out of 172 of youth offenders surveyed were serving life sentences without parole after being convicted of felony murder.

These children deserve to know freedom, they deserve the chance to reform.

The adoption of Senate Bill 395 will bar wrongful severe sanctions against our youth and allow for the progression we all wish to see in our justice system. I ask the General Assembly to **please adopt Senate Bill 395** which addresses felony murder and enacts limitation provisions and review of convictions for children.

Best,  
Christina Simmons  
304 Stevenson Lane, APT B8  
Towson, MD 21204  
Showing Up for Racial Justice Baltimore

**Citations:**

- <https://www.marylandmatters.org/2019/07/09/lawmakers-welcome-home-man-sentenced-to-life-as-a-teen/>
- <https://www.distractify.com/p/curtis-brooks-kids-behind-bars>
- <https://theappeal.org/curtis-brooks-felony-murder-life-sentence/?fbclid=IwAR3-zHHXCmQPn066v4nsvsi56rSIC4CbZS4Hn8jL.BtENfqZRY92S1tZBUMU#.XRmAjrZ5oFG.twitter>

# **SB 395 - Prohibit Charging Juveniles for First Deg**

Uploaded by: Smeton, Jonathan

Position: FAV

Dear Members of the Judicial Proceedings Committee,

This testimony is being submitted by Showing Up for Racial Justice Baltimore, a group of individuals working to move white folks as part of a multi-racial movement for equity and racial justice in Baltimore City and Baltimore County. We are also working in collaboration with Out for Justice. I am a resident of MD District 43. I am testifying in **support of Senate Bill 395**.



**Senate Bill 395**, which prohibits children from being charged with first degree murder in cases where someone incidentally dies in the commission of another felony crime and allows those previously charged with first-degree murder as juveniles in cases like these to have their sentence reduced.

In *State v. Allen*, the Court of Appeals of Maryland held that the felony-murder rule is a legal fiction in which the intent and malice to commit the underlying felony is transferred to elevate an unintentional killing to first degree murder. This holding, as reflected in our current state statutes, does not exclude children from being convicted of first-degree murder under this legal fiction, regardless of actual culpability. The reasoning behind this holding is held in proximate cause theory, which holds defendants accountable for any deaths that should have been “foreseeable” during the crime. The Supreme Court and statistical data on adolescent behavior have reaffirmed that severe convictions against juvenile offenders is not only unconstitutional but strengthens the racially charged “school to prison” pipeline cycle.

The Supreme Court has recognized repeatedly that children and adolescents are the most susceptible to be swept into the current of criminal behavior and taking away the opportunity for reform by enacting the most severe convictions, regardless of intent, violates the 8th Amendment which prohibits cruel and unusual punishments. In *Roper v Simmons*, the Court reasoned in their ruling that “immaturity diminishes [child offenders] culpability, as does their susceptibility to outside pressures and influences”. The majority backed their rationale of this holding with the use of scientific evidence that the underdevelopment of neurological synapses within an adolescent's mind affects decision making and consequential rationalization that does not allow an adolescent to be culpable to the same degree that an adult would in the same crime. The Supreme Court supported their underlying rationale of *Roper v Simmons* with *Graham v Florida* and *Miller v Alabama*. In both cases, the Court affirmed their view that children have the indistinguishable characteristic of future reform and therefore juvenile offenders should be barred from the most severe convictions. In the specific instance of transferred intent against minors, which Senate Bill 395 looks to address, Justice Breyer directly answers that question in his concurring opinion in *Miller v Alabama*, where he states, “transferred intent is not sufficient to satisfy the intent to murder [and] the ability to consider the full consequences of a course of action and to adjust one’s conduct accordingly is precisely what we know juveniles lack capacity to do effectively”. If the Supreme Court of the United States has held in multiple cases that children are to be completely absolved from the most severe convictions because it violates the constitutional fundamentals of justice, why has Maryland continued to hold juveniles guilty in cases where direct culpability is deficient or completely absent?

As mentioned above, the Supreme Court relied on scientific evidence to support their holdings. Without enacting SB 395, juveniles involved in criminal pursuits can be convicted of first-degree murder, even if they were not the direct actor of the murder. This allows adolescents to be exceptionally vulnerable to the most severe punishments as juveniles tend to commit crimes in groups due to peer pressure. The National Crime Victimization Survey states that close to 40 percent of crimes committed by people ages 12 to 20 have multiple perpetrators, compared with only 5 percent for adults 30 and older. And, according to the American Psychological Association, it has been shown that due to underdeveloped prefrontal cortexes, the presence of peers increases adolescent risk taking because of heightened sensitivity to the potential reward value of risk taking in comparison to adults making similar decisions. To continue to allow children to be convicted of first-degree murder under section a(4) of § 2-201, or cases involving “transferred intent”, is to wrongfully exploit the biological callowness of adolescents to fuel the prison industrial complex.

Finally, without adopting SB395, the criminal justice system will continue to be a predatory vehicle for racial prejudice and injustice. Allowing the conviction of first-degree murder under “transferred intent” for children will disproportionately affect POC communities. According to [childrensdefense.org](http://childrensdefense.org), 67% of children in the juvenile justice system were children of color and black youth represented 54% of youth prosecuted in adult criminal court.



The most notable example of the injustice that is caused by murder felony statutes is the story of Curtis Brooks, a Maryland resident, who was charged with murder at the age of 15. Throughout his adolescence, Brooks struggled to maintain a consistent home and was in search of stability when he left Maryland to reunite with his mother in Colorado. Brooks' mother was battling drug addiction at the time and Brooks soon found himself displaced and finding refuge on garage floors to avoid sleeping on the streets. In an attempt to escape a blizzard, Brooks wandered an arcade and was approached by a group of teenagers who had previously allowed him to sleep on their couch. Feeling a kindred obligation to the group, Brooks agreed to help steal a car in which he would be directed to fire a distraction shot in the air. During the attempted carjacking, it was not Brooks who fired the shot that resulted in murder, but his accomplice who killed the victim. Due to a felony murder statute, the court found that, Brooks, at the age of 15, was convicted of first-degree murder and life in prison, despite having no previous criminal record and not firing the bullet that directly resulted in the murder.

Brooks remained in prison until Joanne C Benson, Brooks' previous elementary school principal, and Abdul Raheem Abdullah, President of Prince George's County Education Coalition, used their personal finances to travel to Colorado and advocate for legislative change. At age 40, Brooks returned to his home of Maryland for the first time in 25 years and is able to enjoy the first steps of freedom. Unfortunately, many children are not as fortunate as Brooks and remain in the prison system under a wrongful conviction. According to Human Rights Watch and Amnesty International, 45 out of 172 of youth offenders surveyed were serving life sentences without parole after being convicted of felony murder.

These children deserve to know freedom, they deserve the chance to reform.

The adoption of Senate Bill 395 will bar wrongful severe sanctions against our youth and allow for the progression we all wish to see in our justice system. I ask the General Assembly to **please adopt Senate Bill 395** which addresses felony murder and enacts limitation provisions and review of convictions for children.

Best,  
Jonathan Smeton  
3140 Ellerslie Avenue, Baltimore, MD 21218  
Showing Up for Racial Justice Baltimore

**Citations:**

- <https://www.marylandmatters.org/2019/07/09/lawmakers-welcome-home-man-sentenced-to-life-as-a-teen/>
- <https://www.distractify.com/p/curtis-brooks-kids-behind-bars>
- <https://theappeal.org/curtis-brooks-felony-murder-life-sentence/?fbclid=IwAR3-zHHXCmQPn066v4nsvsi56rSIC4CbZS4Hn8jLBtENfqZRY92S1tZBUMU#.XRmAjr5oFG.twitter>

# **SB 395 - Prohibit Charging Juveniles for First Deg**

Uploaded by: Stabenau, Jackie

Position: FAV



Dear Members of the Senate Judicial Proceedings Committee,

My name is Jackie Stabenau and I live in Federal Hill within the 46th District of Baltimore. This testimony is being submitted by Showing Up for Racial Justice Baltimore, a group of white folks working as part of a multi-racial movement for equity and racial justice in Baltimore City and Baltimore County. I am a current law student at the University of Maryland Francis King Carey School of Law and submitting this testimony on behalf of Showing Up for Racial Justice (SURJ) Baltimore.



I am testifying **in support of Senate Bill 395**, which repeals and reenacts with amendments Section 2-201 within the criminal law articles of the Annotated Code of Maryland.

In *State v. Allen*, the Court of Appeals of Maryland held that “the felony-murder rule is a legal fiction in which the intent and malice to commit the underlying felony is transferred to elevate an unintentional killing to first degree murder”. This holding, as reflected in our current state statutes, does not exclude children from being convicted of first-degree murder under this legal fiction, regardless of actual culpability. The reasoning behind this holding is held in proximate cause theory, which holds defendants accountable for any deaths that should have been “foreseeable” during the crime. The Supreme Court precedents and statistical data on adolescent behavior have reaffirmed the conclusion that severe convictions against juvenile offenders is not only unconstitutional, but strengthens the racially charged “school to prison” pipeline cycle.

The Supreme Court has repeatedly recognized that children and adolescents are the most susceptible to be swept into the current of criminal behavior. The Supreme Court further acknowledges that by enacting the most severe convictions, regardless of intent, violates the 8th Amendment which prohibits cruel and unusual punishments as these sanctions deprive the opportunity for reform among juvenile offenders. In *Roper v. Simmons*, the Court reasoned in their holding that “immaturity diminishes [child offenders’] culpability, as does their susceptibility to outside pressures and influences”. The majority backed their rationale with the use of scientific evidence that confirmed the underdevelopment of neurological synapses within an adolescent’s mind affects decision making and consequential rationalization, thus disallowing an adolescent to be culpable to the same degree that an adult would in the same crime. The Supreme Court established their precedent holding of *Roper v Simmons* with consequent cases, *Graham v Florida* and *Miller v Alabama*. In both cases, the Court affirmed their view that children have the indistinguishable characteristic of future reform, and, therefore, juvenile offenders should be barred from the most severe convictions. In the specific instance of transferred intent against minors, which Senate Bill 395 looks to address, Justice Breyer directly answers that question in his concurring opinion in *Miller v Alabama*, where he states, “transferred intent is not sufficient to satisfy the intent to murder [and] the ability to consider the full consequences of a course of action and to adjust one’s conduct accordingly is precisely what we know juveniles lack capacity to do effectively”. If the Supreme Court of the United States has held in multiple cases that children are to be absolved from the most severe convictions because it violates the constitutional fundamentals of justice, why has Maryland continued to hold juveniles guilty in cases where direct culpability is deficient or completely absent?

As mentioned above, the Supreme Court relied on scientific evidence to support their holdings. Without enacting SB0395, juveniles involved in criminal pursuits can be convicted of first-degree murder, even if they were not the direct actor of the murder. This allows adolescents to be exceptionally vulnerable to the most severe punishments as juveniles tend to commit crimes in groups due to peer pressure. The National Crime Victimization Survey states that “close to 40 percent of crimes committed by people ages 12 to 20 have multiple perpetrators, compared with only 5 percent for adults 30 and older”. And, according to the American Psychological Association, it has been shown that due to underdeveloped prefrontal cortexes, the “presence of peers increases adolescent risk taking because of heightened sensitivity to the potential reward value of risk taking” in comparison to adults making similar decisions. To continue to allow children to be convicted of first-degree murder under section a(4) of § 2-201, or cases involving “transferred intent”, is to wrongfully exploit the biological callowness of adolescents to fuel the prison industrial complex.

Finally, without adopting SB0395, the criminal justice system will continue to be a predatory vehicle for racial prejudice and injustice. Allowing the conviction of first-degree murder under “transferred intent” for children will disproportionately

affect POC communities. According to [childrensdefense.org](http://childrensdefense.org), 67% of children in the juvenile justice system were children of color and black youth represented 54% of youth prosecuted in adult criminal court.



The most notable example of the injustice that is inherently cultivated by murder felony statutes is the story of Curtis Brooks, a Maryland resident, who was charged with murder at the age of fifteen. Throughout his adolescence, Brooks struggled to maintain a consistent home. In search of stability and the hopes of establishing a dependable home life, Brooks left Maryland to reunite with his mother in Colorado. Brooks' mother was battling drug addiction at the time of his arrival and Brooks soon found himself displaced only to find refuge on garage floors to avoid sleeping on the streets. In an attempt to escape a blizzard, Brooks wandered an arcade with all of his belongings in hand. While watching the local kids play video games, Brooks was approached by a group of teenagers who had previously allowed him to sleep on their couch. Feeling a kindred obligation to the group, Brooks agreed to help steal a car in which he would be directed to fire a distraction shot in the air. During the attempted carjacking, it was not Brooks who fired the shot that resulted in murder, but his accomplice who killed the victim. Due to a felony murder statute, the Colorado court found that, Brooks, at the age of fifteen, was convicted of first-degree murder and life in prison, despite having no previous criminal record and not firing the bullet that directly resulted in the murder.

Brooks remained in prison until Joanne C. Benson, Brooks' previous elementary school principal, and Abdul Raheem Abdullah, President of Prince George's County Education Coalition, used their personal finances to travel to Colorado and advocate for legislative change. At the age of 40, Brooks returned to his home of Maryland for the first time in 25 years and is able to enjoy the first steps of freedom. Unfortunately, many children are not as fortunate as Brooks and remain in the prison system under a wrongful conviction. According to Human Rights Watch and Amnesty International, 45 out of 172 of youth offenders surveyed were serving life sentences without parole after being convicted of felony murder.

These children deserve to know freedom; these children deserve the chance to reform.

The adoption of Senate Bill 395 will bar wrongful severe sanctions against our youth and allow for the progression we all wish to see in our justice system. I ask the General Assembly to **please adopt SB395** which addresses felony murder and enacts limitation provisions and review of convictions for children.

Best,  
Jackie Stabenau  
1715 Light Street  
Baltimore, MD 21230  
Member of Showing Up for Racial Justice Baltimore

**Citations:**

- <https://www.marylandmatters.org/2019/07/09/lawmakers-welcome-home-man-sentenced-to-life-as-a-teen/>
- <https://www.distractify.com/p/curtis-brooks-kids-behind-bars>
- <https://theappeal.org/curtis-brooks-felony-murder-life-sentence/?fbclid=IwAR3-zHHXCmQPn066v4nsvsi56rSIC4CbZS4Hn8jLbtENfqZRY92S1tZBUMU#.XRmAjr5oFG.twitter>

**WDC Testimony SB395 (FINAL).pdf**

Uploaded by: Tomasello, Beth

Position: FAV



MONTGOMERY COUNTY, MARYLAND  
WOMEN'S DEMOCRATIC CLUB

P.O. Box 34047, Bethesda, MD 20827

[www.womensdemocraticclub.org](http://www.womensdemocraticclub.org)

**Senate Bill 395-Criminal Law-Felony Murder-Limitation and Review of  
Convictions for Juveniles  
Judicial Proceedings Committee – February 11, 2021  
SUPPORT**

Thank you for this opportunity to submit written testimony concerning an important priority of the **Montgomery County Women's Democratic Club (WDC)** for the 2021 legislative session. WDC is one of the largest and most active Democratic Clubs in our County with hundreds of politically active women and men, including many elected officials.

WDC thanks you for your attention to our support of this bill to end felony murder as applied to children, and we commend Senator Carter for her leadership in sponsoring SB395.

Culpability is stretched thin under the felony murder rule. The rule allows judges and juries to attribute intent to kill to an individual harboring no such intention. Based on what we know from current brain science, culpability is stretched even further when extended to child offenders. In this testimony, we will briefly describe felony murder and why it exists. We will then reference guidance from the Supreme Court as to why this troublesome doctrine is even more troubling as applied to the actions of children.

Murder is a serious crime carrying our most extreme punishments. When we think of murder, criminal law teaches us to think of intent. Intent, which explores the offender's mindset, accounts for how egregious we consider the killing. The most egregious form of murder is murder in the first degree - a deliberate, pre-meditated and willful killing. But there is an exception. An individual can be charged with first-degree murder without the requisite intent to kill. We call this exception "felony murder."

Felony murder criminalizes deaths that occur during the commission of a felony, regardless of whether the person intended the death, did the killing, or had any idea that the person who did the killing might do so. Felony murder only requires involvement in the underlying felony.

There are already stringent penalties for the underlying felonies. In Maryland, felony murder adds a form of strict liability—which does not require intent—to any death that occurs during the commission of certain felonies. Most states require "agency" to charge an individual with felony murder. Agency is applied to all participants in a crime when one of the partners-in-crime is responsible for a death. For example, if an individual joins in robbing a store, the individual can be found guilty of first-degree murder if their partner kills someone in during the robbery. Liability is imposed even if the first partner stood guard outside and did not know their partner had a weapon. Maryland takes this imputation of intent even further. In Maryland, an individual can be charged with first-degree murder even when an unrelated third-party who is not a perpetrator of the underlying felony does the killing. Maryland's highest court has gone so far as to hold that



MONTGOMERY COUNTY, MARYLAND  
WOMEN'S DEMOCRATIC CLUB

P.O. Box 34047, Bethesda, MD 20827

[www.womensdemocraticclub.org](http://www.womensdemocraticclub.org)

even if a police officer, rather than any of the perpetrators of the felony, fired the fatal shot, the perpetrators can be held criminally liable for the death.<sup>1</sup>

What justifies such an extension of intent to an otherwise unintentional killing or to a killing not inflicted by the perpetrators at all? When we punish for crimes, we think of two principles: deterrence and retribution. For deterrence under felony murder, we must assume that the person committing the crime is aware that he will face severe punishment for any death that occurs during its commission and thus will be more careful to forestall such danger or not commit the crime at all. For purposes of retribution, we must view the person committing the crime as responsible for harm caused, even if he did not intend it. We are told that the punishment for the underlying felony is simply not enough and are asked to accept that an unintended or unforeseen act can be deterred. With regard to retribution, we punish for culpability beyond the felony committed by resorting to this flawed legal construction.

The Supreme Court has given us guidance about applying felony murder to child offenders. In *Roper v. Simmons*, the Court acknowledged that youth lack the ability to fully evaluate the consequences of their actions and that they are more susceptible to peer pressure.<sup>2</sup> In *Graham v. Florida*, the Court emphasized that, “when compared to an adult murderer, a juvenile offender who did not kill or intend to kill has a twice diminished moral culpability.”<sup>3</sup> Concurring in *Miller v. Alabama*, Justice Breyer, joined by Justice Sotomayor, expanded on juveniles’ lack of adult moral culpability writing that “[T]he ability to consider the full consequences of a course of action and to adjust one’s conduct accordingly is precisely what we know juveniles lack capacity to do effectively (emphasis added).”<sup>4</sup>

We are troubled by the existence of a felony murder rule in our state. We are even more deeply troubled that this doctrine extends to children. When children commit crimes, we want to deter them and others, and we want retribution—for the crime committed. We lose all legitimacy when we rely on fallacious reasoning to impose our most extreme punishments on those whose culpability is so removed from the criminal act we punish.

In addition to removing felony murder as applied to children, the bill provides for resentencing child offenders who were convicted under the felony murder statute. This is an important provision that looks back to those child offenders convicted under this flawed law and provides a chance to

---

<sup>1</sup> *Jackson v. State*, 286 Md. 430, 408 A.2d 711 (1979). The Alabama conviction and sentencing of Lakeith Smith has received considerable attention, and, though not unique, is indicative of the Maryland rule as applied to a juvenile offender. See Niara Savage, Petition to Free Lakeith Smith, Man Serving 55 Years for Murder After Officer Shot and Killed His Friend, Nears 1 Million Signatures (July 7, 2020)

<https://atlantablackstar.com/2020/07/07/petition-to-free-lakeith-smith-man-serving-55-years-for-murder-after-officer-shot-and-killed-his-friend-nears-1-million-signatures/>

<sup>2</sup> *Roper v. Simmons*, 543 U.S. 551, 578-79 (2005).

<sup>3</sup> *Graham v. Florida*, 560 U.S. 48, 69 (2010).

<sup>4</sup> *Miller v. Alabama*, 567 U.S. 460, 490 (2012).



MONTGOMERY COUNTY, MARYLAND  
WOMEN'S DEMOCRATIC CLUB

P.O. Box 34047, Bethesda, MD 20827

[www.womensdemocraticclub.org](http://www.womensdemocraticclub.org)

reconsider the penalty they received. Accordingly, we urge you to vote in favor of this important legislation. It is the right thing to do.

**We ask for your support for SB395 and strongly urge a favorable Committee report.**

Respectfully,

Diana Conway  
President

# **SB395.pdf**

Uploaded by: Wallington, Keith

Position: FAV



**Testimony to the Senate Judicial Proceedings  
SB395 Felony Murder — Limitation and Review of Convictions for Children**

**Keith Wallington**

**Justice Policy Institute**

**[kwallington@justicepolicy.org](mailto:kwallington@justicepolicy.org)**

**January 21, 2021**

My name is Keith Wallington. I am the State-based Strategist with the Justice Policy Institute (JPI), a national research and policy organization with expertise on criminal and juvenile justice issues. Over the years, my work has focused on utilizing two decades of JPI's policy and research reports to inform better practices in Maryland's justice system. Please accept this statement in support of SB395 Felony Murder – Limitation and Review of Convictions for Children.

Maryland's practice of extreme sentencing and restrictive parole release has run counter to the spirit of the Supreme Court's opinions on this issue for years. In *Miller v. Alabama* (2012), the Supreme Court held that mandatory sentences of life without the possibility of parole are unconstitutional for crimes committed while one is a juvenile. In fact, as part of the *Miller* ruling, the Supreme Court considered the juvenile felony murder case of *Jackson v. Hobbs* (2012) and ultimately determined that a life sentence without the possibility of parole for felony murder violates the Eighth Amendment. Maryland has continued to circumvent the Supreme Court's decision by imposing extreme penalties on youth and not offering a meaningful opportunity for release by the Maryland Parole Commission. This translates into a de facto life without parole sentence, the impact of which is felt most acutely by the Black community.

Maryland has some of the worst racial disparities throughout the justice system, and juvenile felony murder convictions are not exempt from that trend. More than 70 percent of all people in Maryland's prisons, double the national average, and almost 80 percent of people serving at least 10 years, are Black. These are the highest rates in the country, outpacing Louisiana, Mississippi, and Georgia.

Maryland's policies and practices that ignore the developmental differences in youth have costly implications for the future. Extreme sentencing policies, like felony murder, confine youth for decades. Many will eventually become part of the geriatric population after serving decades in prison, long past any potential public safety benefit. In addition, this geriatric population is driving increased healthcare costs behind bars.

An evolving portfolio of research has concluded that the unique developmental differences in youth extend into the emerging adult years of 18 to 25 years old. These include youth-like characteristics of heightened impulsivity, elevated sensitivity to peer and social influence, and a significant likelihood of risk taking.

Resourcing and developing age-appropriate approaches for youth can offer Maryland a path forward focused on investing in youth and emerging adults rather than simply giving up on and warehousing them for much of their life. It is a tragic loss of potential for the individual, their families, and their communities. We must invest in early interventions that work and are targeted to youth and emerging adults. This includes rolling back costly and cruel practices like extreme sentences for felony murder, which is incongruous with Supreme Court jurisprudence.



***A different Approach: Recommendations***

The Maryland justice system is failing those serving extreme sentences. Rather than simply warehousing, Maryland can learn lessons from other jurisdictions to improve their response. These include:

*Prison and Jail-based Programming:* Facility programming should be culturally appropriate with an emphasis on education, vocational training, and enhanced counseling.

*Sentencing Consideration:* Maryland must follow the guidance of the Supreme Court. Judges should consider age and involvement in the crime as a mitigating factor in youth felony murder cases. This will impact supervision placement and sentence length. These same considerations apply to the emerging adult population.

*Community-based Organizations:* There is a growing need for more approaches tailored to work with youth in the community. Successful alternatives to confinement have focused on connecting them with employment and education to advance their development away from high-risk behavior and support transition into adulthood. An extreme sentence suffocates an individual's propensity to change, reform, and grow.

*Policy Change:* Recent legislative efforts have attempted to limit the scope of felony murder for youth. The Illinois General Assembly passed a comprehensive justice reform package that includes substantial changes to the state's juvenile felony murder statute. This change will prohibit prosecutors from seeking first-degree murder for individuals not directly involved in the offense.

Senate Bill 395 does not remove accountability. Youth still face punishment for the crimes they commit and can yet be charged for their participation in a crime. And while we believe there is always more room for reform, this step will ensure that Maryland aligns itself with the Supreme Court decisions and the latest research in youth justice.

Maryland's practice of skirting the Supreme Court decision against mandatory life without parole for youth by imposing extreme sentences and restrictive parole ignores advances in understanding of youth and emerging adult development. These young people offer tremendous opportunities for change and redemption, given a chance to learn and participate in supportive programming. A failure to invest in our young people involved in the justice system has been catastrophic for the Black community, and it is long past time that we chart a new course. For this, JPI asks for favorable consideration of SB395.

# **SB 395 - Prohibit Charging Juveniles for First Deg**

Uploaded by: Wilkins, Katherine

Position: FAV

Dear Members of the Judicial Proceedings Committee,

This testimony is being submitted by Showing Up for Racial Justice Baltimore, a group of individuals working to move white folks as part of a multi-racial movement for equity and racial justice in Baltimore City and Baltimore County. We are also working in collaboration with Out for Justice. I am a resident of MD District 12. I am testifying in **support of Senate Bill 395**.



**Senate Bill 395**, which prohibits children from being charged with first degree murder in cases where someone incidentally dies in the commission of another felony crime and allows those previously charged with first-degree murder as juveniles in cases like these to have their sentence reduced.

In *State v. Allen*, the Court of Appeals of Maryland held that the felony-murder rule is a legal fiction in which the intent and malice to commit the underlying felony is transferred to elevate an unintentional killing to first degree murder. This holding, as reflected in our current state statutes, does not exclude children from being convicted of first-degree murder under this legal fiction, regardless of actual culpability. The reasoning behind this holding is held in proximate cause theory, which holds defendants accountable for any deaths that should have been “foreseeable” during the crime. The Supreme Court and statistical data on adolescent behavior have reaffirmed that severe convictions against juvenile offenders is not only unconstitutional but strengthens the racially charged “school to prison” pipeline cycle.

The Supreme Court has recognized repeatedly that children and adolescents are the most susceptible to be swept into the current of criminal behavior and taking away the opportunity for reform by enacting the most severe convictions, regardless of intent, violates the 8th Amendment which prohibits cruel and unusual punishments. In *Roper v Simmons*, the Court reasoned in their ruling that “immaturity diminishes [child offenders’] culpability, as does their susceptibility to outside pressures and influences”. The majority backed their rationale of this holding with the use of scientific evidence that the underdevelopment of neurological synapses within an adolescent’s mind affects decision making and consequential rationalization that does not allow an adolescent to be culpable to the same degree that an adult would in the same crime. The Supreme Court supported their underlying rationale of *Roper v Simmons* with *Graham v Florida* and *Miller v Alabama*. In both cases, the Court affirmed their view that children have the indistinguishable characteristic of future reform and therefore juvenile offenders should be barred from the most severe convictions. In the specific instance of transferred intent against minors, which Senate Bill 395 looks to address, Justice Breyer directly answers that question in his concurring opinion in *Miller v Alabama*, where he states, “transferred intent is not sufficient to satisfy the intent to murder [and] the ability to consider the full consequences of a course of action and to adjust one’s conduct accordingly is precisely what we know juveniles lack capacity to do effectively”. If the Supreme Court of the United States has held in multiple cases that children are to be completely absolved from the most severe convictions because it violates the constitutional fundamentals of justice, why has Maryland continued to hold juveniles guilty in cases where direct culpability is deficient or completely absent?

As mentioned above, the Supreme Court relied on scientific evidence to support their holdings. Without enacting SB 395, juveniles involved in criminal pursuits can be convicted of first-degree murder, even if they were not the direct actor of the murder. This allows adolescents to be exceptionally vulnerable to the most severe punishments as juveniles tend to commit crimes in groups due to peer pressure. The National Crime Victimization Survey states that close to 40 percent of crimes committed by people ages 12 to 20 have multiple perpetrators, compared with only 5 percent for adults 30 and older. And, according to the American Psychological Association, it has been shown that due to underdeveloped prefrontal cortexes, the presence of peers increases adolescent risk taking because of heightened sensitivity to the potential reward value of risk taking in comparison to adults making similar decisions. To continue to allow children to be convicted of first-degree murder under section a(4) of § 2-201, or cases involving “transferred intent”, is to wrongfully exploit the biological callowness of adolescents to fuel the prison industrial complex.

Finally, without adopting SB395, the criminal justice system will continue to be a predatory vehicle for racial prejudice and injustice. Allowing the conviction of first-degree murder under “transferred intent” for children will disproportionately affect POC communities. According to [childrensdefense.org](http://childrensdefense.org), 67% of children in the juvenile justice system were children of color and black youth represented 54% of youth prosecuted in adult criminal court.

The most notable example of the injustice that is caused by murder felony statutes is the story of Curtis Brooks, a Maryland resident, who was charged with murder at the age of 15. Throughout his adolescence, Brooks struggled to maintain a consistent home and was in search of stability when he left Maryland to reunite with his mother in Colorado. Brooks' mother was battling drug addiction at the time and Brooks soon found himself displaced and finding refuge on garage floors to avoid sleeping on the streets. In an attempt to escape a blizzard, Brooks wandered an arcade and was approached by a group of teenagers who had previously allowed him to sleep on their couch. Feeling a kindred obligation to the group, Brooks agreed to help steal a car in which he would be directed to fire a distraction shot in the air. During the attempted carjacking, it was not Brooks who fired the shot that resulted in murder, but his accomplice who killed the victim. Due to a felony murder statute, the court found that, Brooks, at the age of 15, was convicted of first-degree murder and life in prison, despite having no previous criminal record and not firing the bullet that directly resulted in the murder.



Brooks remained in prison until Joanne C Benson, Brooks' previous elementary school principal, and Abdul Raheem Abdullah, President of Prince George's County Education Coalition, used their personal finances to travel to Colorado and advocate for legislative change. At age 40, Brooks returned to his home of Maryland for the first time in 25 years and is able to enjoy the first steps of freedom. Unfortunately, many children are not as fortunate as Brooks and remain in the prison system under a wrongful conviction. According to Human Rights Watch and Amnesty International, 45 out of 172 of youth offenders surveyed were serving life sentences without parole after being convicted of felony murder.

These children deserve to know freedom, they deserve the chance to reform.

The adoption of Senate Bill 395 will bar wrongful severe sanctions against our youth and allow for the progression we all wish to see in our justice system. I ask the General Assembly to **please adopt Senate Bill 395** which addresses felony murder and enacts limitation provisions and review of convictions for children.

Best,

**Katherine Wilkins**

**10651 Gramercy Pl, Unit 257, Columbia, MD 21044**

Showing Up for Racial Justice Baltimore

**Citations:**

- <https://www.marylandmatters.org/2019/07/09/lawmakers-welcome-home-man-sentenced-to-life-as-a-teen/>
- <https://www.distractify.com/p/curtis-brooks-kids-behind-bars>
- <https://theappeal.org/curtis-brooks-felony-murder-life-sentence/?fbclid=IwAR3-zHHXCmQPn066v4nsvsi56rSIC4CbZS4Hn8jLbtENfqZRY92S1tZBUMU#.XRmAjrZ5oFG.twitter>

# **SB 395 - Prohibit Charging Juveniles for First Deg**

Uploaded by: Yoder, Daryl

Position: FAV

Dear Members of the Judicial Proceedings Committee,

This testimony is being submitted by Showing Up for Racial Justice Baltimore, a group of individuals working to move white folks as part of a multi-racial movement for equity and racial justice in Baltimore City and Baltimore County. We are also working in collaboration with Out for Justice. I am a resident of MD District 12. I am testifying in **support of Senate Bill 395**.



**Senate Bill 395** prohibits children from being charged with first degree murder in cases where someone incidentally dies in the commission of another felony crime and allows those previously charged with first-degree murder as juveniles in cases like these to have their sentence reduced.

In *State v. Allen*, the Court of Appeals of Maryland held that the felony-murder rule is a legal fiction in which the intent and malice to commit the underlying felony is transferred to elevate an unintentional killing to first degree murder. This holding, as reflected in our current state statutes, does not exclude children from being convicted of first-degree murder under this legal fiction, regardless of actual culpability. The reasoning behind this holding is held in proximate cause theory, which holds defendants accountable for any deaths that should have been “foreseeable” during the crime. The Supreme Court and statistical data on adolescent behavior have reaffirmed that severe convictions against juvenile offenders is not only unconstitutional but strengthens the racially charged “school to prison” pipeline cycle.

The Supreme Court has recognized repeatedly that children and adolescents are the most susceptible to be swept into the current of criminal behavior and taking away the opportunity for reform by enacting the most severe convictions, regardless of intent, violates the 8th Amendment which prohibits cruel and unusual punishments. In *Roper v Simmons*, the Court reasoned in their ruling that “immaturity diminishes [child offenders’] culpability, as does their susceptibility to outside pressures and influences”. The majority backed their rationale of this holding with the use of scientific evidence that the underdevelopment of neurological synapses within an adolescent’s mind affects decision making and consequential rationalization that does not allow an adolescent to be culpable to the same degree that an adult would in the same crime. The Supreme Court supported their underlying rationale of *Roper v Simmons* with *Graham v Florida* and *Miller v Alabama*. In both cases, the Court affirmed their view that children have the indistinguishable characteristic of future reform and therefore juvenile offenders should be barred from the most severe convictions. In the specific instance of transferred intent against minors, which Senate Bill 395 looks to address, Justice Breyer directly answers that question in his concurring opinion in *Miller v Alabama*, where he states, “transferred intent is not sufficient to satisfy the intent to murder [and] the ability to consider the full consequences of a course of action and to adjust one’s conduct accordingly is precisely what we know juveniles lack capacity to do effectively”. If the Supreme Court of the United States has held in multiple cases that children are to be completely absolved from the most severe convictions because it violates the constitutional fundamentals of justice, why has Maryland continued to hold juveniles guilty in cases where direct culpability is deficient or completely absent?

As mentioned above, the Supreme Court relied on scientific evidence to support their holdings. Without enacting SB 395, juveniles involved in criminal pursuits can be convicted of first-degree murder, even if they were not the direct actor of the murder. This allows adolescents to be exceptionally vulnerable to the most severe punishments as juveniles tend to commit crimes in groups due to peer pressure. The National Crime Victimization Survey states that close to 40 percent of crimes committed by people ages 12 to 20 have multiple perpetrators, compared with only 5 percent for adults 30 and older. And, according to the American Psychological Association, it has been shown that due to underdeveloped prefrontal cortexes, the presence of peers increases adolescent risk taking because of heightened sensitivity to the potential reward value of risk taking in comparison to adults making similar decisions. To continue to allow children to be convicted of first-degree murder under section a(4) of § 2-201, or cases involving “transferred intent”, is to wrongfully exploit the biological callowness of adolescents to fuel the prison industrial complex.

Finally, without adopting SB395, the criminal justice system will continue to be a predatory vehicle for racial prejudice and injustice. Allowing the conviction of first-degree murder under “transferred intent” for children will disproportionately affect POC communities. According to [childrensdefense.org](http://childrensdefense.org), 67% of children in the juvenile justice system were children of color and black youth represented 54% of youth prosecuted in adult criminal court.

The most notable example of the injustice that is caused by murder felony statutes is the story of Curtis Brooks, a Maryland resident, who was charged with murder at the age of 15. Throughout his adolescence, Brooks struggled to maintain a consistent home and was in search of stability when he left Maryland to reunite with his mother in Colorado. Brooks' mother was battling drug addiction at the time and Brooks soon found himself displaced and finding refuge on garage floors to avoid sleeping on the streets. In an attempt to escape a blizzard, Brooks wandered an arcade and was approached by a group of teenagers who had previously allowed him to sleep on their couch. Feeling a kindred obligation to the group, Brooks agreed to help steal a car in which he would be directed to fire a distraction shot in the air. During the attempted carjacking, it was not Brooks who fired the shot that resulted in murder, but his accomplice who killed the victim. Due to a felony murder statute, the court found that, Brooks, at the age of 15, was convicted of first-degree murder and life in prison, despite having no previous criminal record and not firing the bullet that directly resulted in the murder.



Brooks remained in prison until Joanne C Benson, Brooks' previous elementary school principal, and Abdul Raheem Abdullah, President of Prince George's County Education Coalition, used their personal finances to travel to Colorado and advocate for legislative change. At age 40, Brooks returned to his home of Maryland for the first time in 25 years and is able to enjoy the first steps of freedom. Unfortunately, many children are not as fortunate as Brooks and remain in the prison system under a wrongful conviction. According to Human Rights Watch and Amnesty International, 45 out of 172 of youth offenders surveyed were serving life sentences without parole after being convicted of felony murder.

These children deserve to know freedom, they deserve the chance to reform.

The adoption of Senate Bill 395 will bar wrongful severe sanctions against our youth and allow for the progression we all wish to see in our justice system. I ask the General Assembly to **please adopt Senate Bill 395** which addresses felony murder and enacts limitation provisions and review of convictions for children.

Best,  
Daryl Yoder  
309 Glenmore Ave.  
Catonsville, MD 21228  
Showing Up for Racial Justice Baltimore

**Citations:**

- <https://www.marylandmatters.org/2019/07/09/lawmakers-welcome-home-man-sentenced-to-life-as-a-teen/>
- <https://www.distractify.com/p/curtis-brooks-kids-behind-bars>
- <https://theappeal.org/curtis-brooks-felony-murder-life-sentence/?fbclid=IwAR3-zHHXCmQPn066v4nsvsi56rSIC4CbZS4Hn8jLbtENfqZRY92S1tZBUMU#.XRmAjr5oFG.twitter>

# **MD Judiciary - Testimony SB 395.pdf**

Uploaded by: Elalamy, Sara

Position: UNF



**MARYLAND JUDICIAL CONFERENCE**  
**GOVERNMENT RELATIONS AND PUBLIC AFFAIRS**

Hon. Mary Ellen Barbera  
Chief Judge

187 Harry S. Truman Parkway  
Annapolis, MD 21401

**MEMORANDUM**

**TO:** Senate Judicial Proceedings Committee  
**FROM:** Legislative Committee  
Suzanne D. Pelz, Esq.  
410-260-1523  
**RE:** Senate Bill 395  
Criminal Law – Felony First-Degree Murder – Limitation and  
Review of Conviction  
**DATE:** January 13, 2021  
(2/11)  
**POSITION:** Oppose

---

The Maryland Judiciary opposes Senate Bill 395, which would establish that a child perpetrator, defined as a person who was under the age of eighteen at the time of the offense, may not be found to have committed murder in the first degree if the murder was based solely on the circumstance that the murder was committed in the perpetration of or an attempt to perpetrate an enumerated felony. House Bill 385 would authorize a person under the age of eighteen previously convicted of murder in the first degree under Criminal Law §2-201(a)(4) to file a motion for review of conviction at any time while incarcerated or under supervision.

This bill effectively requires a second trial, following a conviction, to determine whether a defendant convicted of first-degree felony murder on or before September 30, 2021 could be found guilty of murder in the first degree after September 30, 2021. This process is violative of fundamental principles of fairness, constitutional safeguards, and jurisprudential norms. It is unclear whether it applies to pleas; puts courts in the position of potentially upsetting jury verdicts; and establishes a lower standard of proof at this second trial than is constitutionally required.

The bill also requires the court to notify the State’s Attorneys’ offices when applications for review of convictions are filed by persons convicted of felony-murder, a notice more appropriately left to the applicant.

cc. Hon. Jill Carter  
Judicial Council  
Legislative Committee  
Kelley O’Connor

# **SB 395 - Felony Murder.pdf**

Uploaded by: Shellenberger, Scott

Position: UNF

**Bill Number: SB 395**  
**Scott D. Shellenberger, State's Attorney for Baltimore County**  
**Opposed**

**WRITTEN TESTIMONY OF SCOTT SHELLENBERGER,**  
**STATE'S ATTORNEY FOR BALTIMORE COUNTY**  
**IN OPPOSITION OF SENATE BILL 395**  
**CRIMINAL LAW - FELONY MURDER**  
**LIMITATION AND REVIEW OF CONVICTION FOR CHILDREN**

I write in opposition of Senate Bill 395 which creates a one time look back for those convicted of felony murder. The bill effectively eliminates Juveniles from the much accepted concept of felony murder by requiring that the Juvenile be a principal in the first degree. This is a bill that ignores the effect it will have on victims' families and ignores the reality of how many murders are committed. A principal in the first degree is basically the killer or shooter, not an accomplice.

Felony murder existed at common law. The felony murder rule was conceived at common law so that the State could hold felons responsible when they embarked on a dangerous course of conduct which resulted in a death. Maryland decided decades ago to make felony murder, murder in the first degree if the death occurred when certain enumerated felonies were committed in conjunction with the death. The state must prove that there is causation between the murder and the felony.

For example, two people agree to rob a liquor store. "A" has a gun but both "A" and "B" enter the liquor store and announce a robbery. During the course of the robbery, "B" tells "A" to shoot and kill the clerk so they cannot be identified. "A" does and the clerk dies. Under the traditional felony murder doctrine, both can be convicted of murder. Senate Bill 395 would now make it so "B" (a juvenile) could not be convicted of murder. So, "B" jointly robs a store with "A", tells "A" to shoot the clerk, but because he did not pull the trigger and is a juvenile, he could only be found guilty of robbery. That crime carries a maximum sentence of 20 years. Under the facts of this hypothetical that is just wrong. "B" in fact could be the ring leader and in this scenario the worse person.

The other damaging part of Senate Bill 395 is the one-time look back for all those serving a sentence for felony murder if a juvenile when the felony was committed. Maryland already has 13 actions inmates can take to challenge their convictions. In all 13 instances, Victims' families are notified and can and often do come to court to observe the proceedings. If Senate Bill 395 is passed, it will be one more time that a murder victim's family will have to relive the horrors of the crime. Even though the look back is one on the record the families will still be involved.

What is more is this bill says that if you could have been convicted "then" of felony murder as the statute is "now" defining it the court may vacate the conviction. That means if there were no other guilty counts the court converts it to Second Degree

Murder. How can we live in a State where something has been a crime for years and now suddenly it is not going forward and backward. Vacating a conviction and then saying enter a guilty finding for Second Degree Murder may be unconstitutional since in the first case you did not put on evidence of intent and the Second Degree Murder was likely Not Prossed. If it is no longer there how can you be found guilty of a count of Second Degree Murder.

This means the family of Officer Amy Caprio will be in court four more times. Officer Caprio was run over by juvenile, Dawnta Harris, while three other juveniles were burglarizing houses in Perry Hall when Harris, the getaway driver, murdered Officer Caprio. If HB 385 passes, all four will get a look back. All four will have their convictions vacated. All four will get their sentence changed. And once again, this Legislature will bring a family to court four times.

I urge an unfavorable report on Senate Bill 395.