

**Gary E. Bair, Retired Judge
Circuit Court for Montgomery County, Maryland
P.O. Box 321
Kensington, MD 20895
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.