



## HOUSE BILL 0385

RICH GIBSON, HOWARD COUNTY STATE'S ATTORNEY

### **POSITION: UNFAVORABLE HB 0385**

January 19, 2021

My name is Rich Gibson, I am the State's Attorney for Howard County. Part of my obligations as State's Attorney is to advocate for laws that enhance the safety and well-being of our community; that is the reason I am writing today to **oppose** House Bill 0385.

House Bill 0385 seeks to prohibit the application of Felony Murder to individuals that are under 18 years of age. Laws are designed to encourage and discourage conduct; in the criminal context this ensures that criminal consequences are commensurate with the impacts of criminal behavior. Additionally, Felony Murder has long been recognized as a deterrent for those who contemplate committing serious offenses that we, as a society, have historically agreed pose a greater risk of harm. Under our current legal structure, when an individual behaves in a specific way independently, or collectively with others, to engage in enumerated felonies and death results during the commission of that act, all who are involved in the commission of that felony offense bear the responsibility for the loss of life. Felony Murder provides accountability for the consequences of one's actions. The rights of victims to have a justice system which provides a proportionate punishment to the harm caused when a defendant's or co-defendant's action causes the loss of life is essential. Anecdotally, I have handled cases where the families of a victim whose lives were unjustly cut short have issued a chilling warning to me during the trial, "Don't worry if the defendant is found not guilty and punished to our satisfaction; we will take care of him." It is not in the best interest of society to have a system that does not provide victims' families a sense of justice.

Consider this hypothetical circumstance: on the same night in a neighborhood there are two houses that sit side by side. Both houses are

burglarized, one by a juvenile and one by an adult. During the burglaries, an individual is killed in each home. The loss to the victims' families is the same and yet, under House Bill 0385, the justice dispensed could not be more disparate. The adult faces Felony Murder charges and the possibility of a life sentence while the juvenile, under this bill, faces a maximum of a 20-year burglary sentence. Inequitable punishments that do not adequately reflect the harm inflicted will encourage some toward self-help/vigilante justice.

One of the underlying concepts behind House Bill 0385, is the idea that the juvenile mind is not fully developed and therefore a juvenile should not face the heavy consequence of a life sentence. The legislature recently, through the Justice Reinvestment Act, moved away from mandatory minimums in cases involving non-violent offenders; instead, choosing to provide judges greater discretion to weigh the relevant facts and reach an appropriate sentence. I submit that, under current law, Maryland judges have the ability to weigh the defendant's age, lack of criminal history, and other variables in determining what an appropriate sentence is for a youth charged with Felony Murder. In fact, that presiding judge currently has the authority to sentence a "child" charged with Felony Murder to life, suspend all but time served (effectively, no incarcerable time beyond what they spent in jail awaiting trial, if they spent any time in jail at all).

I implore the legislature to remember the victims and the families of those who have lost loved one's due to other's participation in criminal acts, allow the discretion in these cases to remain with our judges, and to keep in place laws that provide a sense of justice for those who have been harmed so they have no need to seek retribution themselves. **I ask that you give an unfavorable report to House Bill 0385.**