

Caroom_FAV_SB 919

Uploaded by: Caroom, Phil

Position: FAV



SUPPORT SB 919 & SB 951

Testimony of Phil Caroom for MAJR exec.com.

March 10, 2020

Maryland Alliance for Justice Reform (MAJR - www.ma4jr.org) supports modification of Maryland's felony murder rule, a legal fiction which unjustly incarcerates so many with life sentences.

SB 919 limits felony murder to "principals in the first degree" (primarily perpetrators), permits a retroactive motion to modify sentence for those convicted under the old law, and creates a Taskforce to Study Felony Murder in Maryland as some applications still would exist.

SB 951 modifies the current statutes for first degree to include only premeditated murder and second degree murder statutes to include felony-murders as punishable by a maximum of 40 years incarceration. On petition, a court could resentence those now serving felony-murder sentences under the new second degree law to reduce current life sentences not to exceed 40 years.

What's the problem? Can people be found guilty of murder and sentenced to life in prison if the Court knows they didn't kill anyone? In Maryland, the answer is yes because of our State's legal-fiction known as the "felony-murder rule."

Here are actual examples approved by Maryland courts: Someone who intended participation in only a much lesser crime (for example, robbery with no weapon or burglary) can receive a life-sentence if they had the bad luck of:

- a) police shooting someone during the arrest,
- b) an unhealthy victim having a heart attack, or
- c) an accomplice spontaneously panicking and committing an unplanned killing. (More details follow on page 2.)

Should bad luck be the decisive factor for the Court's imposing life sentences? In England, where the felony-murder rule was invented, the answer is no. There, the felony-murder rule was repealed there many years ago. It also has been changed in Canada and elsewhere in the former British Empire; in the U.S., the rule has been changed in Kentucky, Ohio, Michigan, California and other states.

Maryland doesn't keep statistics on the percentage of its 2,328 life-sentence prison inmates convicted via felony-murder. But, other states' surveys have found women and juveniles are impacted disproportionately:

- **72% of women sentenced for felony-murder did not personally commit a killing; and**
- **The average age of those convicted of felony-murder was 20 years old.**

In Maryland, life sentences for felony-murder are still more harsh as most Governors veto the huge majority of lifers' parole recommendations.

Other policy considerations: Does the felony-murder rule provide a deterrent? One survey found that **fewer than 1% charged with felony-murder knew of the rule before their arrest.**

How would such resentencing impact the State? Clearly, such costs should be offset by savings of reduced incarceration for those no longer serving time at [\\$40,000 per year per person. Particularly, older inmates have been shown to have much higher medical costs on average, so actual saving could be double the normal annual cost per inmate.](#)

Would this statute present difficulties in application?: While resentencing hearings would be required, the State would not retry guilt or innocence as a murder convictions in SB 951 and felony convictions in SB 919 still could remain in place. Victims again would have an opportunity to be heard. The State and the Courts previously have demonstrated good ability efficiently to absorb hundreds of sentence reviews with the adoption of Maryland's Justice Reinvestment Act and the Unger decision.

Would public safety be put at risk by earlier release from 40 year sentences than from life sentences?: Studies suggest that the answer is "no." Prison inmates' recidivism rate drastically drops with age such that, by age 50, inmates' recidivism for all types of offenses is in the single digits — vs. the average Maryland recidivism rate for all types—including much younger offenders— of 41% recidivism within 3 years.

For all these reasons, MAJR urges a favorable report on SB 919 & SB 951.

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PLEASE NOTE: Phil Caroom offers this testimony for MAJR and not for the Md. Judiciary
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PLEASE SEE ILLUSTRATIONS OF FELONY-MURDER & OTHER REFERENCES ON PG. 2

Specific examples of Maryland's felony-murder rule:

Jeter agreed with an accomplice to break into a men's clothing warehouse (*maximum penalty 15 years*) ; police responded and promptly arrested Jeter, who was unarmed. After his arrest, the accomplice still in the warehouse allegedly shot and killed a security officer.

Maryland courts approved Jeter's felony-murder conviction (*penalty - life in prison*), even though the killing by the accomplice occurred after Jeter already was in police custody. The accomplice later was not found guilty. Jeter v. State, 9 Md.App. 575 (1970), cert. 261 Md. 221 (1971).

Jackson and accomplices planned to rob a jewelry store carrying guns (*maximum penalty - 25 years*); when police arrived, they held store employees hostage and attempted to escape.

Although Jackson and his accomplices killed no one, police accidentally shot a store employee and Maryland courts convicted Jackson of felony-murder (*penalty - life in prison*). Jackson v. State, 286 Md. 430 (1979).

Stewart robbed a motel clerk with a note that read "Don't say a word. Put all the money in this bag and no one will get hurt!" (*maximum penalty - 10 years*) The clerk didn't see a gun and none was found. Prior to the event, the clerk had surgery for cancer and one lung was surgically removed. Two hours after the robbery, she felt ill, had trouble breathing, and died of a heart attack. Maryland courts, applying the felony-murder rule, approved the robber's conviction for *1st degree murder, eligible for a life sentence*. Stewart v. State, 65 Md.App. 372 (1985) cert den. 305 Md. 599.

Four teenagers agreed to burglarize a house (*maximum penalty - 20 years*). But, while three were inside, the fourth behind the wheel of the getaway car saw a police officer approaching, panicked and ran her over, killing her.

Applying *Maryland's felony-murder rule*, *all four teens were eligible for life sentences* although none planned to kill anyone. Tragic death of Officer Amy Caprio - See Baltimore Sun, article 9/30/19.

Learn More!

Felony Murder (Critical Perspectives on Crime and Law) by Guyora Binder <https://www.amazon.com/gp/product/B007X57VPM/>

The Marshall Project asks: Can It Be Murder If You Didn't Kill Anyone? <https://www.themarshallproject.org/2018/06/27/can-it-be-murder-if-you-didn-t-kill-anyone>

Restore Justice: Know More: Felony Murder <https://restorejustice.org/know-more-felony-murder/>

Abolish felony murder in Maryland, Lila Meadows, University of Maryland Clinical Law Program <https://www.baltimore-sun.com/opinion/op-ed/bs-ed-op-0610-felony-murder-20190607-story.html>

Why Did I Serve 16 Years for Murder When I Didn't Kill Anyone? <https://youtu.be/jKGy8TIGMDI>

Maryland Alliance for Justice Reform_fav_SB 919

Uploaded by: Sabin, Edward

Position: FAV

Support SB 919 – Felony Murder Limitation and Review

My name is Ed Sabin. I'm part of the Maryland Alliance for Justice Reform (MAJR) and Maryland CURE. Did you know that there are men and women serving life sentences in Maryland who did not kill anyone? They are serving life due to the antiquated felony murder rule which states that anyone involved in a felony during which someone dies can be found guilty of first degree murder just as if that person caused the victim's death.

I've been a volunteer at Jessup Correctional Institution (JCI) for over 20 years. In that time I've come to know inmates who are fine people and who improve the prison environment for themselves and others. Some are lifers in prison due to the felony murder rule.

Several Maryland prisons have active lifers' groups including the Maryland Correctional Institution for Women (MCIW); the Maryland Correctional Institution-Jessup (MCIJ); as well as JCI. I was invited to speak to the MCIJ lifers' group last year. I received a warm welcome from a group of 30 or so men packed into a small classroom. I asked for a show of hands of those who were serving life due to the felony murder rule. About 7 or 8 men raised their hands. This is good information because we don't know what percentage of men and women in Maryland prisons are serving life due to the rule. Besides reforming the rule, SB 919, if passed, would provide this information.

A picture is worth a thousand words. Meet some of the men serving life with possibly of parole at JCI in the attached photos. I'm sure you would be welcome to meet with the lifers' group at JCI or at other Maryland prisons. I urge your support of SB 919 to correct the injustice caused by this outmoded law. For information on the reform of the felony murder rule in California, please see the following excellent 5 minute YouTube video:

<https://www.youtube.com/watch?v=jKGy8TlGMDI&app=desktop>

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INDIVIDUALS SERVING LIFE WITH PAROLE @ J.C.I.



John Chesley
DOC # 9846
51 Years



James Grim
DOC # 103-948
50 Years



Lawrence Walker
DOC # 110-999
48 Years



Thomas Gaither
DOC # 115-720
47 Years



Robert Watson
DOC # 120-595
46 Years



William Young
DOC # 148-908
40 Years



James Wells
DOC # 146-304
41 Years



James Calhoun-El
DOC # 160-083
38 Years



Andrew Monge
DOC # 164-084
38 Years



Spencer Hurst-Bey
DOC # 151-540
38 Years



Frank Parker
DOC # 157-900
38 Years



John Martin
DOC # 158-955
37 Years



Robert Leisures
DOC # 159-827
37 Years



Ra'uf Matin
DOC # 164-350
37 Years



Richard Preston
DOC # 165-229
36 Years



Craig Muhammad
DOC # 166-850
36 Years



Ronald F. Drake
DOC # 164-569
35 Years



Glen Hudson
DOC # 169-076
35 Years



Kevin Rainsford-El
DOC # 169-296
35 Years



Gary Smith-El
DOC # 180-865
34 Years



Anthony Johnson
DOC # 192-387
30 Years



John Linde
DOC # 201-828
29 Years



Conrad Gains
DOC # 214-416
28 Years



Paul Brinegar
DOC # 228-412
25 Years



Stanley Beczeski
DOC # 231-175
25 Years



D'Quinta Uzzle
DOC # 279-793
22 Years



Steven Carrow
DOC # 279-942
20 Years

"THIS IS JUST A SMALL PORTION OF THE 2,700 LIFERS WITH PAROLE"

JUVENILE OFFENDERS SERVING LIFE WITH PAROLE @ J.C.I.



NO PHOTO

Leon Mack
DOC # 7899
54 Years



Kenneth Tucker
DOC # 130-850
41 Years



Donald Braxton
DOC # 163-023
37 Years



Calvin McNeill
DOC # 163-182
37 Years



Vernon Carter
DOC # 161-786
36 Years



Robert Davis
DOC # 161-787
36 Years



Marvin Patterson
DOC # 174-669
36 Years



Donald Young
DOC # 170-003
34 Years



Jeffrey Parmely
DOC # 172-043
34 Years



Paul L. Aytch Jr.
DOC # 175-629
34 Years



Alfred Chestnut
DOC # 172-992
34 Years



Dameron Smallwood
DOC # 176-009
33 Years



Earl Young
DOC # 178-197
33 Years



Arlando Jones
DOC # 179-799
33 Years



Keith Faulk
DOC # 192-008
30 Years



Carl Richardson-El
DOC # 192-352
30 Years



Calvin Pressley
DOC # 192-967
30 Years



Alonzo Turner-Bey
DOC # 205-291
29 Years



Tommy Bonilla
DOC # 213-291
29 Years



Marcus "Abu" Tunstall
DOC # 216-796
27 Years



Curtis Houston
DOC # 225-530
26 Years



Chester McNair
DOC # 229-324
25 Years



Delonte Kingsberry
DOC # 230-915
25 Years



Sean Jeff Andrews
DOC # 236-665
25 Years



Kenneth Bond-El
DOC # 263-398
22 Years



Harry Williams-El
DOC # 292-249
20 Years



Robert Pittman
DOC # 305-353
18 Years

"THIS IS JUST A SMALL AMOUNT OF THE APPROXIMATE 300 JUVENILE LIFERS"

Jill Carter_FAV_SB 919

Uploaded by: Senator Carter, Senator Carter

Position: FAV



THE SENATE OF MARYLAND
ANNAPOLIS, MARYLAND 21401

**Testimony of Senator Jill P. Carter
In Favor of SB0919 - Criminal Law – Felony First–Degree Murder –
Limitation and Review of Conviction
Before the Judicial Proceedings Committee
on March 10, 2020**

Mr. Chairman, Vice chair, and Members of the Committee:

Felony murder is an ancient artifact from the English common law that is no longer relevant to twenty-first century Maryland. We typically define first degree murder as a “willful, deliberate, and premeditated” killing. But with felony murder, the rule is that if you are involved in a specified felony and someone dies in the course of that crime, you are guilty of first degree murder.

I could come up with dozens of unfair scenarios where this rule might be applied. Here is only one. If my Uber driver gets in a fatal car accident while driving me away from the prison from which I just escaped, I could be charged and convicted of felony murder. And so could the driver. We could both spend life in prison. If, on the other hand, I were simply getting a lift home from my job at Jessup, and the driver killed someone due to negligence, it is an entirely different situation.

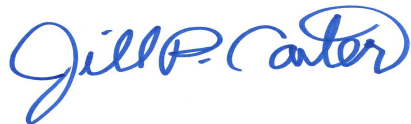
This bill looks to remove those absurd situations from the law. What is proposed here is for a conviction of first degree murder, the

defendant must be the first degree principal. First degree principal means that the defendant was directly responsible for the death. Essentially, the defendant must pull the trigger.

The proposed legislation also allows people convicted on felony murder theories one chance to have their cases reconsidered to determine if they were, in fact, the first degree principal. It requires courts to look for unfair results as the one we have here. It provides the courts with several options to rectify the issue including resentencing, ordering a new trial or even vacating the conviction altogether.

It is time for Maryland to join Hawaii, Kentucky, Massachusetts, and Michigan in abolishing this outdated rule. As such, I urge a favorable report from this committee on SB 919.

Very Truly Yours,

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

Jill P. Carter

scott shellenberger_unf_sb919

Uploaded by: Gibson, Richard

Position: UNF

Bill Number: SB919
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 919
FELONY FIRST DEGREE MURDER
LIMITATION AND REVIEW OF CONVICTION

I write in opposition of Senate Bill 919 which creates a onetime look back for those convicted of felony murder and effectively eliminates the much accepted concept of felony murder by requiring the Defendant to 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. The state must prove that there is causation between the murder and the felony.

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 919 would now make it so "B" 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, 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.

The other damaging part of Senate Bill 919 is the one-time look back. As I previously testified, 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 919 is passed, it will be one more time that a murder victim's family will have to relive the horrors of the crime.

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 inmate walks out the door. 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.

I urge an unfavorable report on Senate Bill 919.

MDJudiciary_UNF_SB919

Uploaded by: Jones, Tyler

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 919
Criminal Law – Felony First-Degree Murder – Limitation and
Review of Conviction
DATE: February 26, 2020
(3/10)
POSITION: Oppose

The Maryland Judiciary opposes Senate Bill 919. Senate Bill 919 would authorize a person previously convicted of murder in the first degree under Criminal Law §2-201(a)(4) who was not a principal in the first degree to apply for review of the conviction at any time while incarcerated or under supervision. On application for review of conviction, the court shall notify the state’s attorney of the application and hold a hearing to determine whether the applicant could be found guilty of murder under the new narrowed formulation of murder in the first degree. If the court does not find beyond a reasonable doubt that the applicant could be found guilty of murder in the first degree, the court may vacate the conviction, resentence, grant a new trial, or correct the sentence. Senate Bill 919 would also establish a Task Force to Study Felony Murder for Principals in the First Degree.

At Criminal Law Article, § 2-201(d)(1)-(2), the bill effectively requires a re-trial by a court of a jury’s findings to determine whether a defendant convicted of first-degree felony murder on or before September 30, 2020 could be found guilty of murder in the first degree after September 30, 2020. This places courts in the position of making findings of guilt for first-degree murder which is a task appropriately left to juries.

The bill also provides that if the court does not find beyond a reasonable doubt that the applicant could be found guilty, the court may vacate the conviction. This language is confusing and unworkable as it requires the court to find beyond a reasonable doubt that a possibility may exist.

Also, at § 2-201(d)(4), the bill requires courts 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.

In addition, this bill creates a task force. Among its proposed members is the chair of the Conference of Circuit judges or designee. While the Maryland Judicial Conference appreciates the Judiciary's consideration in the formation of this task force, membership of judges on such bodies can raise separation of powers and dual office issues.

Participation by judges in extra-judicial activities, such as statutorily created workgroups, commissions, and task forces, is limited by Rule 3.4 of the Code of Judicial Conduct and by Article 8 of the Maryland Declaration of Rights. To ensure uniformity in the administration of justice throughout the state, judges are advised not to participate in the policy development functions of the Judiciary's executive and legislative partners. While the Judiciary always makes itself available for questions on a case by case basis, the Judiciary respectfully requests not to be included on this task force.

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

MCPA-MSA_UNF_SB 919

Uploaded by: Mansfield, Andrea

Position: UNF



Maryland Chiefs of Police Association

Maryland Sheriffs' Association



MEMORANDUM

TO: The Honorable William C. Smith Jr., Chairman, and
Members of the Judicial Proceedings Committee

FROM: Chief David Morris, Co-Chair, MCPA, Joint Legislative Committee
Sheriff Darren Popkin, Co-Chair, MSA, Joint Legislative Committee
Andrea Mansfield, Representative, MCPA-MSA Joint Legislative Committee

DATE: March 10, 2020

RE: **SB 919 – Criminal Law – Felony First-Degree Murder – Limitation and
Review of Conviction**

POSITION: OPPOSE

The Maryland Chiefs of Police Association (MCPA) and the Maryland Sheriffs' Association (MSA) OPPOSE SB 919.

Felony murder provides an important deterrence to participating in violent crimes. Current law appropriately recognizes that all who participate in a violent felony bear responsibility for a homicide that occurs during that felony, regardless of which person dealt the fatal blow. Those who participate in serious crimes rightly face serious punishment. Treating all principals, the same is sound public policy and helps provide some measure of justice to the families of victims. SB 919 sends the wrong message to victims' families and to those considering participating in violent crimes.

MCPA and MSA are particularly opposed to the retroactive portions of SB 919. SB 919 will re-victimize families, years or even decades after a conviction was final. A re-sentencing alone would be an injustice for victims' families, but SB 919 also allows a judge to order a new trial without any finding of newly discovered exculpatory evidence or any error in the original proceedings.

SB 919 would severely erode the public's trust in the judicial system. Families of murder victims should be entitled to a sense of finality when those who participated in the murder of a loved one have been held accountable.

For these reasons, MCPA and MSA OPPOSE SB 919 and urge an UNFAVORABLE Committee report.

Richard Gibson_unf_sb919

Uploaded by: Shellenberger, Scott

Position: UNF

Bill Number: SB919
Scott D. Shellenberger, State's Attorney for Baltimore County
Opposed

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STATE'S ATTORNEY FOR BALTIMORE COUNTY
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I urge an unfavorable report on Senate Bill 919.