



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

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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.