

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
(3/16)
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