

TO: Members of the Senate Judicial Proceedings Committee

FROM: Erica J. Suter, Assistant Public Defender and Director of the UB Innocence Project Clinic

RE: SB850: Youth Accountability and Safety Act

DATE: March 13, 2023

I am an assistant public defender, law professor and Director of the UB Innocence Project Clinic, and President of the Maryland Criminal Defense Attorney's Association. I write in support of SB850.

As a career criminal defense attorney, I have encountered many men and women who participated in risky behavior as youths, but had no clear understanding of the inherent risks involved. For example, a kid broke into a home that he and his friend thought was empty. They were looking for food and a place to crash. They did not expect the homeowner to be home or to be armed. The homeowner shot one of the kids. The friend shot the homeowner. Both kids were convicted of first degree murder and given life sentences, despite only one of them actually committing the homicide.

A young woman told her boyfriend that she thought this man she sometimes worked for might have some money. The young woman did not consider that the victim could be hurt or killed in the process. Her friend was not armed. She may have knocked on the door and the victim opened it because he knew her. She did not go inside, did not see what happened, and did not anticipate that the victim would be killed in the course of the robbery. She was convicted of first degree murder and given a life sentence.

Another teen thought that he and his friend would steal a victim's timberland boots. He did not foresee that his friend was armed and would shoot the victim. They were both given life sentences for first degree murder.

The doctrine of felony murder is premised on the idea that certain conduct is so inherently dangerous and potentially violent, that by participating in the activity, one assumes the risk of the potential deadly consequences. In recent years, we have come to better understand the brain science of young people. We now know that young people have less ability to foresee and appreciate risk and the future consequences of their conduct, that they have less impulse control, and are more impressionable and subject to the influence of their peers and their environment. These deficits in risk appreciation and long-term thinking and vulnerability to the influence of others are a normal part of development and not the marks of an irretrievably depraved character. We also know that the process of brain maturation continues into a person's mid-20's, and that young people have less culpability than their adult counterparts because of their brains' inability to fully envision the risks and consequences of their actions.

We also know that genuine change is possible as the brain matures. This is precisely why the felony murder rule is utterly ineffective in its deterrent value on young people and overly harsh in its application. Typically, young minds often do not grasp the potential consequences of their conduct because their brains are still developing. Imposing life sentences on children and emerging adults in these circumstances fails to deter others and fails to punish a defendant appropriately.

For these reasons, I urge a favorable report.