



Montgomery County Commission on Juvenile Justice

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**Written Testimony in Support of SB0850**

March 14, 2023

Senator Will Smith  
Chair, Judicial Proceedings Committee  
2 East  
Miller Senate Office Building  
Annapolis, Maryland 21401

Dear Senator Smith:

Thank you for the opportunity to submit written testimony on behalf of the Montgomery County Commission on Juvenile Justice (MC CJJ) in support of Senate Bill 850.

MC CJJ was established to advise the Montgomery County Executive, County Council and the Juvenile Court, on matters concerning juvenile justice. Our work includes gathering and disseminating information from public and private agencies serving youth, monitoring juvenile justice programs and services, visiting facilities, closely following relevant State and local legislation, and making recommendations regarding juvenile needs. MC CJJ is composed of appointed, volunteer citizen members, and agency members that include the Child Welfare Services Program, the Montgomery County State's Attorney's Office, the Office of the

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Behavioral Health and Crisis Services • Child and Adolescent Behavioral Health Services

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Public Defender, the Montgomery County Police Department, Montgomery County Public Schools, and the Maryland Department of Juvenile Services.

Senate Bill 850 takes a vital step forward in limiting the scope of what is known as the “Felony Murder Doctrine” in our state. Under this doctrine, individuals can be charged with first-degree murder if, during the commission of a separate felony, an individual is killed. For example, three nineteen-year-olds rob a convenience store for lottery tickets. A gun accidentally goes off during the robbery, killing the shop owner. Each of the nineteen-year-olds can be charged with first-degree murder and sentenced to life in prison despite the fact that only one of them may be responsible for the death. SB 850 would no longer allow individuals under the age of 25 to be charged with a crime that they did not commit under the felony murder doctrine.

Felony murder is a failure on multiple levels and is universally decried by academics as ineffective and unjust.<sup>1</sup> The doctrine is archaic and rooted in English common law dating back to the 1600s.<sup>2</sup> Little has changed since its inception. The practical effects of felony murder are palpable as it over-criminalizes conduct by attributing the actions of one person to a group of people at large. Sadly, and unsurprisingly, communities of color are disproportionately affected by its invocation.<sup>3</sup>

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<sup>1</sup> See James J. Tomkovicz, *The Endurance of the Felony-Murder Rule: A Study of the Forces that Shape Our Criminal Law*, 51 WASH. & LEE L. REV. 1429, 1431 n.9 (1994).  
<https://scholarlycommons.law.wlu.edu/wluir/vol51/iss4/8>

<sup>2</sup> Nelson E. Roth and Scott E. Sundby, *Felony-Murder Rule a Doctrine at Constitutional Crossroads*, 70 CORNELL L. REV. 1984 (1984), [HTTPS://SCHOLARSHIP.LAW.CORNELL.EDU/CLR/VOL70/ISS3/3/](https://scholarship.law.cornell.edu/CLR/vol70/iss3/3/)

<sup>3</sup>See, for example, the data on Cook County in Kat Albrecht, *Data Transparency & the Disparate Impact of the Felony Murder Rule*, DUKE CENTER FOR FIREARMS LAW, <https://firearmslaw.duke.edu/2020/08/data-transparency-the-disparate-impact-of-the-felony-murder-rule/> (Aug. 11, 2020). See also the discussion in *Felony Murder, An On-Ramp for Extreme Sentencing*, The Sentencing Project, p. 5 (March 31, 2022), <https://www.sentencingproject.org/reports/felony-murder-an-on-ramp-for-extreme-sentencing/>



A doctrine that artificially imputes intent to kill and foreseeability to all the participants in a felony is particularly inappropriate as applied to youth and emerging adults because of what we know from science about their brain development. The Supreme Court has also taken note that young people act impulsively and cannot easily foresee the consequences of their actions.

As the Daily Record's Editorial Board stated in 2022, it is time to reign in felony murder in Maryland.<sup>4</sup> The doctrine violates modern standards of due process and specific intent, which underpin the American criminal justice system. Our criminal justice system is founded on the idea that people should only be convicted of crimes that they *actually* commit. For generations, we have allowed felony murder to create a caveat to that principle. We must not allow that caveat to continue harming our citizens. We urge this committee to support SB 850, and to strengthen our state's commitment to equal justice in doing so.

Sincerely,



Kevin Redden, Chair  
Montgomery County Commission on Juvenile Justice

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<sup>4</sup> Editorial Advisory Board, *Its Time to Abolish Felony Murder in Maryland*, THE DAILY RECORD, <https://thedailyrecord.com/2022/06/30/editorial-advisory-board-its-time-to-abolish-felony-murder-in-md/> (June 30, 2022).

