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HB1180 - Criminal Law - Youth Accountability and Safety Act

Felony murder was first charged hundreds of years ago in England, which has since abolished the practice along with many other jurisdictions in the US and abroad. Felony murder is when someone who participates in a crime, no matter how remotely, can be charged with first degree murder even if they had no knowledge or participation in the loss of life, no way to predict or stop it, and even if they were not physically present at the time. Women, youth and people of color are disproportionately charged with and convicted of felony murder, and most people still have no idea that you can get convicted of first degree murder without actually killing someone.

There has been debate of the felony murder statute in Maryland for years, however progress always gets halted at the overwhelming number of historical cases that would require review if the law was changed in a sudden and sweeping way. But every year that goes by without changing the felony murder rules prospectively, more cases are adjudicated, more people are excessively sentenced, and it becomes more difficult to make the necessary changes. We need to take immediate action to stop the harm being caused today, then continue to work toward repairing historical damage.

Through my work as a parole advocate, I've gotten to know many of the people serving extensive sentences because of the felony murder statute. These include some who were acquitted of the predicate felony but still convicted of felony murder through another unusual but allowable concept called an inconsistent verdict and others who are serving sentences for an even stranger thing - felony attempted murder, where they have a life sentence because a co-defendant attacked, but did not kill, someone. I've seen cases where, through plea deals, the person who committed the murder was released with a numeric sentence or had a parolable sentence and the person who was merely present in some periphery way was convicted of felony murder and sentenced to life without the possibility of parole. Once you start looking case by case, the inequities are both frequent and shocking.

Unfortunately, understanding a problem and solving it are two different things. Although studies in other states have shown that about 25% of first degree murder convictions are due to felony murder, Maryland does not even track which of its cases are felony murder, and therefore cannot produce statistics of its own. With over 2,000 lifers, identifying which cases are felony murder has become a massive undertaking in and of itself. While this is an important problem to address, it is also one that will take careful planning and implementation of solutions. A problem as long-lived and large as felony murder cannot be rectified in a single legislative action or a single year. HB1180 is the first step on the road, and we will never get to our destination if we don't take it.

This bill protects one important and vulnerable group of people who are most frequently charged with felony murder - youth. While we are not yet addressing the problems of the past,

we are preventing future harm and starting an important conversation that will hopefully spark ideas and workgroups to consider broader solutions. We are also able to observe the impact of this moderately paced change and discover any unintended consequences before making future plans. I urge a favorable report on HB1180.