

Testimony Concerning House Bill 1190
Criminal Law - Youth Accountability and Safety Act
Position: Favorable with Amendment

To: Delegate Luke Clippinger, Chair, and Members of the House Judiciary Committee

From: Tyler Mazur, Student Attorney, Youth, Education and Justice Clinic, University of Maryland Francis King Carey School of Law, 500 W. Baltimore Street, Baltimore, MD 21201 (admitted to practice law pursuant to Rule 19-220 of the Maryland Rule Governing Admission to the Bar)

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I am a student attorney in the Youth, Education and Justice Clinic (“the Clinic”) at the University of Maryland Francis King Carey School of Law. The Clinic represents individuals serving life sentences in the Maryland prisons for crimes they committed as children or emerging adults. The Clinic supports House Bill 1190, with an amendment that extends the repeal of felony murder to emerging adults aged eighteen to twenty-five.

Under current Maryland law, if a death occurs during the commission of one or more particular felony offenses, all participants involved in the offense can be charged and prosecuted for first degree murder. This charge is applicable to participants who had an active role in the victim’s death as well as participants who did not have a role in the victim’s death or had no intention of the victim dying. Current Maryland law makes no exception for children or emerging adults.

The Clinic represents clients who have lived in Maryland’s prisons for decades for crimes they committed as children or emerging adults. In essence, they have lived in prisons their entire adult lives. A few of our clients have been incarcerated for felony murder. All of our clients were sentenced prior to the advances in modern brain development science, which concludes that the areas of the brain most closely associated with an individual’s sense of both the short and the long-term consequences of their actions does not fully mature until 25 years of age.¹ Thus, the brain science does not draw a line between adolescence and emerging adults.

¹ See Mariam Aram et al., *Maturation of the Adolescent Brain*, 9 NEUROPSYCHIATRIC DISEASE & TREATMENT 449, 452 (2013) (“It is well established that the brain undergoes a ‘rewiring’ process that is not complete until approximately 25 years of age”), <https://pmc.ncbi.nlm.nih.gov/articles/PMC3621648/pdf/ndt-9-449.pdf>. See also Testimony of Jennifer L. Woolard, Ph.D., Associate Professor of Psychology, Georgetown University, Public Hearing on Bill 23-0127, The “Second Look Amendment Act of 2019” and the Implementation of the Sentence Review Provisions of the Incarceration Reduction Amendment Act of 2016, before the Council of the District of Columbia, Committee on the Judiciary & Public Safety, Mar. 26, 2019 (stating that scientific advances over the last 25 years “demonstrate the continued growth and reorganization of the brain during the teen and young adult years, well into the mid-20s and potentially later”), https://lims.dccouncil.us/downloads/LIMS/41814/Hearing_Record/B23-0127-HearingRecord1.pdf; Tony Cox, *Brain Maturity Extends Well Beyond Teen Years*, NAT’L PUB. RADIO (Oct. 10, 2011, 12:00 PM) (reporting that the area of the brain associated with voluntary choice and impulse control is the last area of the brain to fully develop and, for most people, does not reach maturity “until about age 25.”) <https://www.npr.org/templates/story/story.php?storyId=141164708>.

Maryland's felony murder law ignores scientific fact and instead relies on the foreseeability of a death occurring to hold all individuals culpable and justify the harshest punishments for all individuals involved. However, the science makes clear that the ability to foresee the consequences of one's actions – let alone the actions of another – is less developed in children and emerging adults than older adults.² Therefore, extending HB 1190 to emerging adults aligns with modern brain science.

HB 1190 is also a positive step towards addressing the unjust racial disparities within Maryland's incarcerated population. Shamefully, our state has the highest percentage of Black individuals in prison in proportion to the state's overall Black population.³ Approximately 80% of individuals sentenced in Maryland as emerging adults who have served ten or more years in prison are Black.⁴ Furthermore, Black individuals are overrepresented among those convicted under felony murder laws in states such as Alabama, California, Colorado, Connecticut, Florida, Illinois, Maine, Michigan, Minnesota, Mississippi, Missouri, New Jersey, New York, Pennsylvania, Washington and Wisconsin.⁵ Maryland's felony murder law thus serves as a means of punishing Black youth and young adults with long sentences, with the probability of them ultimately dying in prison.

HB 1190 is a major step forward in aligning our state's law with modern brain science and addressing our racially disproportionate prison population. For these reasons, the Clinic urges a favorable report.

This testimony is submitted on behalf of the Youth, Education, and Justice Clinic at the University of Maryland Francis King Carey School of Law and not on behalf of the Francis King Carey School of Law or the University of Maryland.

² See Laurence Steinberg et al., *Are Adolescents Less Mature than Adults?*, 64 AM. PSYCH. 583, 587 (2009) (high-risk behavior “such as reckless driving, binge drinking, crime, and spontaneous unprotected sex...is significantly more common during late adolescence and early adulthood than after.”), <https://www.apa.org/pubs/journals/releases/amp-64-7-583.pdf>.

³ See Leah Wang, *Prison Policy Initiative, Updated Data and Charts: Incarceration Stats by Race, Ethnicity, and Gender for All 50 States and D.C.*, PRISON POL'Y INITIATIVE (Sept. 27, 2023) (downloaded spreadsheet shows that as of 2021, Maryland had the higher percentage of Black incarcerated individuals in the United States), https://www.prisonpolicy.org/blog/2023/09/27/updated_race_data/; ASHLEY NELLIS, THE SENTENCING PROJECT, THE COLOR OF JUSTICE – RACIAL AND ETHNIC DISPARITY IN STATE PRISONS 20 tbl. 5 (2021) (showing the same as of 2019), <https://www.sentencingproject.org/app/uploads/2022/08/The-Color-of-Justice-Racial-and-Ethnic-Disparity-in-State-Prisons.pdf>.

⁴ JUST. POL'Y INST., RETHINKING APPROACHES OF BLACK ADULTS IN MARYLAND 4 (Nov. 6, 2019), https://justicepolicy.org/wp-content/uploads/justicepolicy/documents/Rethinking_Approaches_to_Over_Incarceration_MD.pdf.

⁵ *State Data*, FELONY MURDER REPORTING PROJECT, <https://felonymurderreporting.org/states/> (last visited Feb. 22, 2025).