

House Bill 1190
Criminal Law – Youth Accountability and Safety Act
Judiciary Committee – February 26, 2025
FAVORABLE WITH AMENDMENTS

Thank you for the opportunity to submit written testimony in support of HB 1190. I am a long-time resident of Montgomery County. I am a retired Federal employee and have been serving as a citizen member of the Montgomery County Commission on Juvenile Justice since 2021. The views expressed here are my own.

I support HB 1190 because this bill aims to take an important step toward limiting the application of what is known as the felony murder rule in Maryland. This rule allows individuals who did not intend to kill anyone, who did not anticipate that someone would be killed, or who did not participate in the killing of someone-- to be charged and convicted of first-degree murder if someone is killed in the perpetration or attempted perpetration of a felony in which they are participating. This rule is based on the theory that they should have foreseen the possibility that someone could be killed, and results in people being punished for a crime—first-degree murder--they did not commit. It sweeps those involved in committing one of the underlying felonies into culpability for first-degree murder. The rule, which originated in England in the 17th century, is archaic and has been decried by many as unjust. It was abolished in England in 1957. The rule violates a widely shared principle of justice that the punishment should be proportional to the severity of the crime.¹ It has no place in our judicial system.

What is particularly troubling about its application in Maryland is that a conviction under this doctrine results in an extremely lengthy sentence of life or life without parole. Sentences for the underlying felonies in the felony murder provision are harsh enough. By treating felony murder identically to premeditated murder for purposes of sentencing, it has the effect of widening the net of extreme sentencing. The use of this rule in Maryland relieves the prosecutors of the need to prove intent. The use of it has filled the prisons with many individuals who were convicted as minors or emerging adults of first-degree murder and who are serving excessive sentences with no meaningful opportunities for release. While Maryland does not report data on the number of individuals in the prisons who were convicted under this doctrine, we do know that in 2024 there were over 2000 people serving life sentences, most of whom are Black.² **For this reason, I support the inclusion of language in the bill that would make**

¹N. Ghandnoosh, E. Stammen, and C. Budaci, “Felony Murder: An On-Ramp for Extreme Sentencing”, The Sentencing Project (March 2022, updated May 2024), <https://www.sentencingproject.org/app/uploads/2024/05/Felony-Murder-An-On-Ramp-for-Extreme-Sentencing.pdf>

² A. Nellis and C. Barry, “A Matter of Life: The Scope and Impact of Life and Long-term Imprisonment in the United States,” The Sentencing Project (2025), p.6, <https://www.sentencingproject.org/app/uploads/2025/01/A-Matter-of-Life-The-Scope-and-Impact-of-Life-and-Long-Term-Imprisonment-in-the-United-States.pdf>

the relief provided by the bill retroactive, giving at least some of the individuals convicted as minors under this doctrine an opportunity for resentencing.

HB 1190 attempts to help address Maryland's mass incarceration problem by not permitting youth under the age of 18 to be charged with felony murder unless the young person was the "Principal in the first degree" in the commission of the felony. While I wish Maryland would join the rest of the world and eliminate the felony murder rule altogether for adults and children alike, I am grateful to Delegate Crutchfield and the bill's co-sponsors for proposing to take a critical first step by focusing on young people whom we believe are disproportionately harmed by the application of this doctrine. **The bill appropriately recognizes that the application of the felony murder doctrine to youth is particularly problematic because it does not account for the differences in neurobiology, psychology, and maturity between young people and adults.** The impulsive nature of youth, their susceptibility to peer pressure, and their inability to comprehend the long-term consequences of their actions make it especially unfair to impute foreseeability to them.³

However, **I do not support the bill's attempt to make a distinction between a youth whom prosecutors claim meets the definition of the so-called Principal and other minors involved in the underlying felony.** The "Principal" is defined as the "main actor in a crime or helps others commit a crime". Allowing prosecutors to use this vague and overly broad definition to charge young people with a crime they did not commit (i.e., premeditated, intentional first-degree murder) ignores the cognitive vulnerability of all the young people participating in the underlying felony and results in unnecessarily harsh sentences for young offenders, based on a legal fiction. I have no doubt that the authority to charge the "main actor in a crime" or someone who "helps others commit a crime" would be used by prosecutors in plea bargaining to secure guilty pleas that result in unjustifiably long sentences, as is the case under current law. Children will take an unfair plea deal because of the justified fear of being convicted of first-degree murder and sentenced to life in an adult prison.

I do not support imputing foreseeability to anybody under the age of 25, considering what brain science tells us about young people, and the severity of the punishment in Maryland for people convicted of first-degree murder. My view is that accountability and justice is best achieved by holding children responsible for the crimes they did commit.

Therefore, I strongly recommend that the bill be amended to disallow charging or sentencing any minor with first-degree murder based on the felony murder rule.

For these reasons, I am recommending a report of **Favorable with Amendments for HB 1190.**

Sincerely,

Carol Cichowski

³ S. Kokkalera, B. Strah, and A. Bornstein, "Article: Too Young for the Crime, Yet Old Enough to do Life: A Critical Review of How State Felony Murder Laws Apply to Juvenile Defendants" (June 1, 2021), Journal of Criminal Justice and Law, 4(2), 90-107, <https://assets.pubpub.org/gaetmm6o/31630588928962.pdf>

