Caucus Testimony

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TO: Delegate Luke Clippinger, Chair
Delegate Sandy J. Bartlett, Vice Chair
Judiciary Committee Members
FROM: Maryland Legislative Latino Caucus
DATE: February 26, 2025
RE: HB1190 – Criminal Law – Youth Accountability and Safety Act

The MLLC supports HB1190 – Criminal Law – Youth Accountability and Safety Act

The MLLC is a bipartisan group of Senators and Delegates committed to supporting legislation that improves the lives of Latinos throughout our state. The MLLC is a crucial voice in the development of public policy that uplifts the Latino community and benefits the state of Maryland. Thank you for allowing us the opportunity to express our support of HB1190.

HB1190 proposes changes to Maryland's criminal law regarding first-degree murder convictions for individuals who were children at the time of the offense. The bill specifies that a child cannot be found guilty of first-degree murder under the felony murder provision unless they were a principal in the first degree, meaning they were the main actor in the crime. Additionally, the bill establishes a process for individuals convicted of felony murder as minors before September 30, 2025, to petition for a review of their conviction while incarcerated or under supervision. If the court determines that the petitioner would not be guilty of first-degree murder under the new standard, it may vacate the conviction, grant a new trial, or resentence the individual. The bill aims to ensure fair accountability for juvenile offenders by considering their level of involvement in serious crimes.

This bill addresses systemic disparities in the juvenile justice system that disproportionately impact Latino youth. Studies have documented that Latino communities face challenges such as racial profiling, harsher sentencing, and limited access to legal resources. Latino youth are often subjected to more severe sentencing compared to their White counterparts for similar offenses.[1] By ensuring that children cannot be convicted of felony first-degree murder unless they were a principal in the first degree, HB1190 aims to prevent excessive and unjust sentencing of young individuals who may have been present but not directly responsible for a crime.

For these reasons, the Maryland Legislative Latino Caucus respectfully requests a favorable report on HB1190.

[1] Piquero, Alex R., et al. *Youth Offending and Latino/a Justice in the United States: Disparities and Discrimination in the Criminal Justice System*. U.S. Department of Justice, Office of Justice Programs, 2005, https://www.ojp.gov/pdffiles1/nij/grants/208129.pdf.

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UNIVERSITY OF BALTIMORE
Center for Criminal Justice Reform

TESTIMONY IN SUPPORT OF HOUSE BILL 1190

YOUTH ACCOUNTABILITY AND SAFETY ACT

TO: Members of the House Judiciary Committee
FROM: Center for Criminal Justice Reform, University of Baltimore School of Law
DATE: February 24, 2025

The University of Baltimore School of Law's Center for Criminal Justice Reform (the "Center") is dedicated to supporting community driven efforts to improve public safety and address the harm and inequities caused by the criminal legal system. Aligned with this mission, the Center submits this testimony in strong support of House Bill 1190 as amended by Del. Charlotte Crutchfield.

House Bill 1190, as amended, prohibits children from being convicted of first-degree murder under the felony murder provision. Under current Maryland law's felony murder provision, individuals of all ages may be punished as if they had committed an intentional homicide when they commit—or attempt to commit—certain felonies that unintentionally result in someone's death.[1] Under the same rule, individuals may also be convicted of first-degree murder when they participate in a felony in which their partner intentionally or accidentally kills someone without their prior knowledge or consent.[2] Under current Maryland law, a person convicted of first-degree murder is guilty of a felony, punishable by imprisonment for life either with the possibility of parole or without the possibility of parole.[3] Therefore, a child convicted as an adult of first-degree murder via felony murder must receive a life sentence.[4]

Felony murder is a legal fiction that defies our system's bedrock principle of proportionality by imposing the most serious penalties available in the criminal justice system on people, including children, who did not intend to kill, did not anticipate a death, and did not participate in killing another person. The anomalous and arbitrary nature of the felony murder rule makes it unsurprising that most other common law jurisdictions that once applied it have abandoned the doctrine.[5] Our continued felony murder practice—especially as it relates to

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[1] See Md. Code, Crim. Law § 2-201.

[2] *Id.*

[3] *Id.*

[4] *Id.*

[5] Nazgol Ghandnoosh et al., Felony Murder: An On-Ramp for Extreme Sentencing, The Sentencing Project, (March 31, 2022), https://www.sentencingproject.org/app/uploads/2024/05/Felony-Murder-An-On-Ramp-for-Extreme-Sentencing.pdf at 8.

children—helps the United States earn our ignominious distinction as one of the most carceral countries in the world.

I. Convicting children of first-degree murder under the felony murder provision runs counter to scientific evidence, U.S. Supreme Court jurisprudence, and the Maryland General Assembly's recognition that children are more impulsive, less culpable, and highly capable of rehabilitation.

The felony murder doctrine has been described as "an unsightly wart on the skin of the criminal law,"[6] and as an "anachronistic remnant, a historic survivor for which there is no logical or practical basis for existence in modern law."[7] One of the chief complaints against felony murder is that it "erodes the relation between criminal liability and moral culpability"[8] by equating felonious activity with the deliberate taking of human life. While the idea that an adult consciously choosing to commit a felony is as culpable as one who deliberately kills another human being is dubious at best, it is particularly hard to justify when it comes to children.

The application of felony murder liability against children ignores the overwhelming scientific and jurisprudential evidence that children are less culpable for criminal activity. The United States Supreme Court has repeatedly recognized that "kids are different."[9] In *Graham v. Florida*, Justice Anthony Kennedy wrote for the Court:

> [B]ecause juveniles have lessened culpability they are less deserving of the most severe punishments. As compared to adults, juveniles have a lack of maturity and an underdeveloped sense of responsibility; they are more vulnerable or susceptible to negative influences and outside pressures, including peer pressure; and their characters are not as well formed. These salient characteristics mean that it is difficult even for expert psychologists to differentiate between the juvenile offender whose crime reflects unfortunate yet transient immaturity, and the rare juvenile offender whose crime reflects irreparable corruption. Accordingly, juvenile offenders cannot with reliability be classified among the worst offenders. A juvenile is not absolved of responsibility for his actions, but his transgression is not as morally reprehensible as that of an adult
>
> . . . [D]evelopments in psychology and brain science continue to show fundamental differences between juvenile and adult minds. For example, parts of the brain involved in behavior control continue to mature through late adolescence. Juveniles are more capable of change than are adults, and their actions are less likely to be evidence of irretrievably depraved character than are the actions of adults. It remains true that from a

[6] See Nelson E. Roth & Scott E. Sundby, The Felony-Murder Rule: A Doctrine at Constitutional Crossroads, 70 Cornell L. Rev. 446 (1985) (citing Packer, Criminal Code Revision, 23 U. Toronto L.J. 1, 4 (1973))
[7] See People v. Aaron, 409 Mich. 672, 689, 299 N.W.2d 304, 307 (1980) (internal quotations omitted)
[8] *Id*. at 317.

[9] See Miller v. Alabama, 132 S. Ct. 2455 (2012); Graham v. Florida, 560 U.S. 48, 57 (2010); Roper v. Simmons, 543 U.S. 551 (2005).

> moral standpoint it would be misguided to equate the failings of a minor with those of an adult, for a greater possibility exists that a minor's character deficiencies will be reformed.[10]

The Maryland General Assembly has also frequently recognized that children are different for purposes of culpability and criminal sentencing, including by passing the Juvenile Restoration Act (JRA) in 2021. The JRA (1) prohibits courts from sentencing people to life in prison without the possibility of parole for crimes that occurred when they were under 18 years old, (2) provides that courts are not bound by mandatory minimum sentences when sentencing children, and (3) allows people who have been incarcerated for at least 20 years for crimes committed when they were children to file a motion to reduce their sentence.[11] When successfully urging his colleagues to override the Governor's veto, the lead sponsor of the JRA, Republican Senator Chris West of Baltimore County, observed:

> A person's brain doesn't fully mature until he's 25 years old, and with maturity comes different thinking, different attitudes, and a different approach to life. Impulsive behavior diminishes. There's a far greater appreciation of the consequences of one's actions.
>
> We all know this to be true because each of us has had this happen to us. If we were to reflect on our own lives, we would have to acknowledge that at the age of 37, we could look back at our actions when we were only 17 and conclude that a lot of changes had occurred in the meantime.[12]

The application of the felony murder doctrine against Maryland children offends scientific literature, constitutional principles, and the values of the Maryland General Assembly.

II. The application of felony murder, especially to children, does not deter violence or promote public safety.

Common justifications for the felony murder rule—that those engaged in certain felonies should know that death is a possibility and further that extreme penalties will deter engagement in such felonies—are particularly unsuitable and misplaced when applied to children. Harsh sentences are unlikely to deter youth because "the characteristics that make juveniles more likely to make bad decisions also make them less likely to consider the possibility of punishment, which is a prerequisite to a deterrent effect."[13] Furthermore, as a general matter, the research is clear that longer sentences do not deter people of all ages from engaging in criminal behavior.[14]

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[10] Graham, 560 U.S. at 68.
[11] Md. Code, Crim. Law § 8-110.
[12] Statement of Sen. Chris West in Floor Debate on Override of Veto of S.B. 494, at time market 0:14:06 to 0:15:08 (Apr. 10, 2021), available at https://mgaleg.maryland.gov/mgawebsite/FloorActions/Media/senate-45-?year=2021RS
[13] Carter v. State, 461 Md. 295, 311 (2018) (citation omitted).
[14] See U.S. DEP'T OF JUSTICE, OFFICE OF JUSTICE PROGRAMS, *Five Things About Deterrence*, https://www.ojp.gov/pdffiles1/nij/247350.pdf.

Instead, certainty of apprehension—not severity of sentence—discourages people from engaging in crime.[15]

Instead, wasteful and unnecessary policies and practices— such as excessively long sentences for children with diminished culpability—harm public safety by siphoning massive sums of money that could otherwise support programs that actually prevent crime. Maryland is greatly in need of cost savings currently. Savings that are likely to result from the passage of HB 1190 would allow the reallocation of critical funds to assist with drug treatment, reentry and other rehabilitation programs for people at higher risk of engaging in criminal behavior.

III. Convicting children of first-degree murder under the felony murder provision produces extreme and unjust results, eroding the legitimacy of the system.

Felony murder, especially when applied to children, offends well-established principles of justice and fairness in our criminal legal system. It abandons proportionality and individualized accountability in favor of strict liability and guilt by association. Maryland's felony murder provision fundamentally misunderstands and overestimates the risk of death associated with felonies. For example, empirical studies found that robbery, a predicate felony in Maryland's felony murder doctrine, is not particularly "inherently dangerous."[16] One study in "Chicago in the early 1980s found that approximately 0.6% of *reported* robberies resulted in homicide. The California Supreme Court has held that a 'garden-variety armed robbery'—one involving the use of a gun—does not involve a grave risk of death."[17] Similarly, Guyora Binder, a legal expert of the felony murder doctrine, observed that the "mortality rate for reported burglaries is less than 0.02%."[18]

A number of felony murder cases in Maryland illustrate the extreme and absurd results of the application of this doctrine to people of all ages. For example, in *Jeter v. State*, 9 Md. App. 575 (1970), the defendant agreed to break into a men's clothing warehouse with an accomplice. Police arrived on the scene and quickly arrested the defendant. After the defendant's arrest, his accomplice allegedly shot and killed a security officer. Jeter was convicted of first-degree murder under the felony murder doctrine and sentenced to life in prison even though the killing occurred after he was already in custody. Jeter's accomplice was later found not guilty. In another case, *Stewart v. State*, 65 Md. App. 372 (1985), Stewart robbed a motel clerk with a written note. No gun was reported nor found. The clerk had had surgery for cancer that removed one lung prior to the robbery A few hours after the robbery, the clerk experienced trouble breathing and died of a heart attack. Stewart was convicted of felony murder and eligible for a life sentence.

In addition to producing unjust results in individual cases, the felony murder doctrine causes intolerable and extreme outcomes across the criminal justice system as a whole. The felony murder doctrine undermines the legitimacy of the system and contributes directly to mass

[15] *Id.*
[16] Ghandnoosh et al., Felony Murder: An On-Ramp for Extreme Sentencing, at 17.
[17] *Id.*
[18] *Id.*

incarceration. For example, "[i]n some states, anywhere from one-fourth to one-half of [incarcerated people] sentenced to [life without parole] were convicted of felony murder."[19]

IV. Because several criminal laws and penalties exist in Maryland that prosecutors may use to address youth committing felony offenses, felony murder liability for children is not necessary to hold people accountable.

Even with the passage of HB 1190, Maryland prosecutors will retain a broad range of serious felony charges and penalties to hold people, including children, accountable for wrongdoing.

Without felony murder, prosecutors will still be able to charge a child with a variety of homicide offenses based on the underlying facts of a case. For example, a prosecutor may be able to charge a child as an accomplice to premeditated first-degree murder, which also carries a life sentence. The Maryland Pattern Jury instructions describe accomplice liability, in part, as follows:

> The defendant may be guilty of (crime) as an accomplice, even though the defendant did not personally commit the acts that constitute that crime. In order to convict the defendant of (crime) as an accomplice, the State must prove that the (crime) occurred and that the defendant, with the intent to make the crime happen, knowingly aided, counseled, commanded, or encouraged the commission of the crime, or communicated to [the] [a] primary actor in the crime that [he] [she] was ready, willing, and able to lend support, if needed.[20]

Alternatively, if the facts support it, a child may be charged with second-degree murder, which carries a sentence of up to 40 years in prison.[21] As part of second-degree murder, Maryland's common law recognizes "depraved heart" murder, which requires 'the deliberate perpetration of a knowingly dangerous act with reckless and wanton unconcern and indifference as to whether anyone is harmed or not."[22]

Furthermore, upon the passage of HB 1190, prosecutors may still charge children with the enumerated felonies which currently serve as predicate acts for felony murder liability. These are serious offenses that carry significant penalties, including decades in prison. For example, someone convicted of first-degree arson, kidnapping, or carjacking may be imprisoned for up to thirty years.[23] Burglary carries penalties of up to 25 years (first-degree), 20 years (second-degree), and 10 years (third-degree) imprisonment.[24] Furthermore, if a child uses a handgun in commission of a felony, the court may sentence him up to 20 years in prison, the first five of

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[19] Thalia Rodriguez, Felony Murder and Mass Incarceration, The ACLU of Oklahoma, https://www.acluok.org/en/news/felony-murder-and-mass-incarceration.
[20] West v. State, 2016 Md. App. LEXIS 469 (Spec. App. Aug. 25, 2016).

[21] Md. Code, Crim. Law § 2-204.

[22] Robinson v. State, 307 Md. 738, 744 (1986).
[23] See Md. Code, Crim. Law §§ 6-102; 3-502; 3-405.
[24] See Md. Code, Crim. Law §§ 6-202; 6-203; 6-204.

which to be served without parole.[25] Eliminating the application of felony murder to children will certainly not eliminate accountability, including significant prison time, for children. It will, however, help to mitigate the risk of disproportionate sentences and coercive pleas.

For the foregoing reasons, the Center strongly supports House Bill 1190 as amended.

[25] See Md. Code, Crim. Law § 4-204.

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Uploaded by: Emily Virgin
Position: FAV

TESTIMONY IN SUPPORT OF HB 1190 BEFORE THE MARYLAND HOUSE JUDICIARY COMMITTEE

February 24, 2025

Dear Chairman Clippinger and Members of the Maryland House Judiciary Committee:

Human Rights for Kids respectfully submits this testimony for the official record to express our support for HB 1190. We are grateful to Delegate Crutchfield for her leadership in introducing this bill and appreciate the Maryland Legislature's willingness to address these important human rights issues concerning Maryland's children.

Over the years too little attention has been paid to the most vulnerable casualties of mass incarceration in America — children. From the point of entry and arrest to sentencing and incarceration our treatment of children in the justice system is long overdue for re-examination and reform.

Human Rights for Kids is a Washington, D.C.-based non-profit organization dedicated to the promotion and protection of the human rights of children. We work to inform the way the nation understands Adverse Childhood Experiences (ACEs) from a human rights perspective, to better educate the public and policymaker's understanding of the relationship between early childhood trauma and negative life outcomes. We use an integrated, multi-faceted approach which consists of research & public education, coalition building & grassroots mobilization, and policy advocacy & strategic litigation to advance critical human rights on behalf of children in the United States.

Human Rights Standards

Human Rights for Kids supports HB 1190 because the application of the felony-murder rule to children runs counter to the Inter-American Commission on Human Rights' recommendations to avoid sentencing children by the same guidelines that apply to adults, and to consider child brain

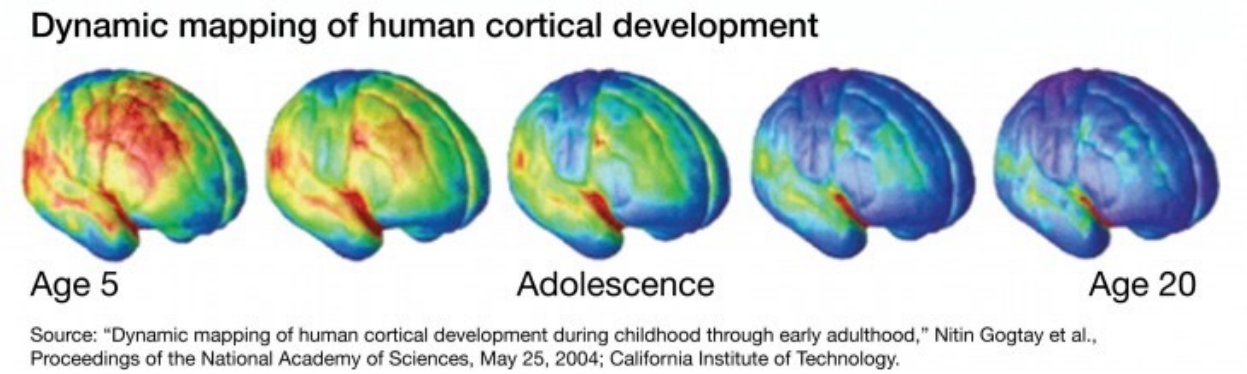
and behavioral development science when charging and sentencing child offenders. It is a well-documented fact that children are more impetuous, prone to irrational decision-making, and often lack the ability to foresee the unintended consequences of their actions. Therefore, states should move to eliminate the application of the felony-murder rule to children to create more age-appropriate charges and sentences.

Maryland's policy of allowing children to be convicted of first-degree murder, and be subject to a mandatory life sentence, for murders they did not commit, intend, or foresee that their co-defendant would commit, flies in the face of these widely accepted international human rights standards.

Juvenile Brain & Behavioral Development Science

Studies have shown that children's brains are not fully developed. The pre-frontal cortex, which is responsible for temporal organization of behavior, speech, and reasoning continues to develop into early adulthood. As a result, children rely on a more primitive part of the brain known as the amygdala when making decisions. The amygdala is responsible for immediate reactions including fear and aggressive behavior. This makes children less capable than adults to regulate their emotions, control their impulses, evaluate risk and reward, and engage in long-term planning. This is also what makes children more vulnerable, more susceptible to peer pressure, and being heavily influenced by their surrounding environment.

Children's underdeveloped brains and proclivity for irrational decision-making is why society does not allow children to vote, enter contracts, work in certain industries, get married, join the military, or use alcohol or tobacco products. These policies recognize that children are impulsive, immature, and lack solid decision-making abilities.



In this picture the blue areas can be thought of as representing 'more mature' sections of brain. The frontal areas are among the last to mature.

Human Rights Violations

Because of the way children are treated in the criminal justice system, we designated Maryland one of the "Worst Human Rights Offenders" in the nation in our 2020 National State Ratings Report. Maryland was penalized in our assessment, in part, for its application of the felony

murder doctrine to children. It should be noted that more than 80% of youth charged as adults in Maryland are Black. Such practices are contrary to human rights law and have made Maryland a national outlier.

While it is important to note that the vital reforms to the juvenile justice system passed since the aforementioned 2020 report resulted in Maryland's recognition as the "most improved state" in the 2022 edition of our National State Ratings Report, Maryland is still penalized for its felony murder policy.

In late 2022, Human Rights for Kids requested and received data from the State of Maryland on people who are currently incarcerated for crimes they were convicted of as children. According to our analysis of the data provided by the State, there are 1,132 currently incarcerated people who fit this description. This number represents 6.09% of Maryland's overall prison population, which is more than double the national average of 3%. Maryland ranks 5th highest in the nation for the percentage of its overall prison population that has been incarcerated since they were children. Only Michigan, Louisiana, Wisconsin, and South Carolina have higher percentages.

Conclusion

Nelson Mandela once said, "*There is no keener revelation of a society's soul than the way in which it treats its children*."

With the passage of HB 1190, Maryland has the opportunity to become a national leader by recognizing that kids are different and therefore should be treated differently in the criminal legal system.

It is for the foregoing reasons that Human Rights for Kids respectfully requests that the Committee issue a favorable report on HB 1190 by Delegate Crutchfield.

Thank you for your time and consideration.

Submitted by: Emily Virgin, Director of Advocacy & Government Relations, Human Rights for Kids, evirgin@humanrightsforkids.org

House Bill 1190 - Juvenile FM Repeal -Favorable.pd
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MARYLAND OFFICE OF THE PUBLIC DEFENDER

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ELIZABETH HILLIARD
DIRECTOR OF GOVERNMENT RELATIONS

POSITION ON HOUSE BILL 1190

BILL: House Bill 1190

FROM: Maryland Office of the Public Defender

POSITION: Favorable

DATE: February 26, 2025

The Maryland Office of the Public Defender respectfully requests that the Committee issue an favorable report on House Bill 1190.

House Bill 1190 ends the practice of charging juveniles with felony murder and prevent children from dying in prison for crimes they have not committed. In Maryland, felony murder is treated identically to premeditated first degree murder for the purposes of charging and sentencing and carries a mandatory life sentence. Because Maryland's parole system is fundamentally broken with respect to those serving life, a life sentence carries a very high probability that a juvenile convicted of felony murder could die in prison.

Under the felony murder doctrine, the state needs only to prove that a juvenile was engaged in a felony, in many cases a robbery, when a murder occurs. Unlike traditional first degree murder cases, the state does not have to prove that the juvenile had any intent to commit a murder. It is sufficient for the State to show only that a felony was underway when someone else committed the murder. The law essentially operates as a strict liability doctrine in which we expect individuals, including juveniles, to be able to foresee the potential consequences of participating in a felony even if they have no intention to commit a murder.

The rule is particularly unworkable as applied to juveniles. The Supreme Court recognized in a series of recent cases that juvenile brain development lags behind that of an adult. As a result, children are less able to measure risk and foresee the consequences of their actions. Recognizing those limitations, it's difficult to justify applying a rule that is based on foreseeability to minors where the penalty is a life sentence.

In the case of one of my clients, the State admitted that my 16 year old client had no knowledge that a murder would occur. His crime was standing behind his co-defendant, a man 5 years his senior, as his co-defendant pulled a gun and announced a hold up of a gas station. The State initially offered my client 10 years in exchange for a guilty plea. The case was my client's first involvement with the criminal legal system. Without a sophisticated understanding of the system or of the felony murder doctrine, my client could not understand the risks of going to trial. At 16 years old, ten years seemed like a lifetime. He was found guilty of felony murder and sentenced to life plus 20 years consecutive.

In over 37 years of incarceration, he was recommended for parole twice and twice denied by the Governor. The client was one of the first to have his case reviewed under the new Sentencing Review Unit in the Baltimore City State's Attorney's Office. After State's Attorney Marilyn Mosby agreed to relief, he was resentenced in December 2020 to time served. He was 16 years old the day he entered prison, 53 years old the day he walked out, and had served almost four times the amount of time prosecutors offered in their plea deal.

House Bill 1190, as amended, does not include a mechanism for retroactive resentencing. While the Office of the Public Defender in principle believes all changes to substantive law, especially with respect to charging and sentencing, should be retroactive, we recognize that the language in House Bill 1190 with respect to retroactive application posed a number of problems. Because we believe that the prospective only repeal of felony murder in House Bill 1190 is an essential step forward, we support the bill as amended.

A prospective repeal of felony murder for juveniles will prevent the injustice of individuals serving many decades in prison for murders they either did not commit themselves or did not intend to commit. This will not sacrifice public safety, nor will it prevent the state from holding these individuals accountable for the felonies and/or underlying crimes they participated in. House Bill 1190 simply asks the state to do what it is required to do in any other case – prove both the act and the underlying intent.

House Bill 1190 moves Maryland closer to proportionality in sentencing and for those reasons, the Office of the Public Defender urges a favorable report.

Submitted by: Maryland Office of the Public Defender, Government Relations Division.

Authored by: Lila Meadows
Decarceration Initiative
Maryland Office of the Public Defender
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HB 1190_Youth Accountability and Safety Act.pdf
Uploaded by: Margaret Barry
Position: FAV

Margaret Martin Barry

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

Testimony in SUPPORT

Thank you for this opportunity to submit written testimony in support of HB 1190, the Youth Accountability and Safety Act. As a resident of Montgomery County, I urge the Committee to **favorably and expeditiously report HB 1190** and ask each of you to support its passage in the House. I am grateful to Delegate Crutchfield for her ongoing leadership in this matter, as well as Delegates Bartlett, Davis, Ruff, Spiegel, and Williams for their co-sponsorship.

I watched the Committee briefing on felony murder in January of this year. It clearly laid out why felony murder is unjust. We have a system of criminal law based on culpability that is defined by intent and action consistent with that intent. The urge to damn anyone remotely connected with a death without proving that culpability, flies in the face of what is not only expected but what is right.

First-degree murder, as conventionally understood, is the deliberate, premeditated, and willful killing of an individual. Because it is the worst type of homicide, it carries a mandatory life sentence in Maryland. Barn-burning, carjacking, and prison escape are not deliberate, premeditated, willful killing, and neither are the nine other enumerated felonies in Maryland's felony murder statute. Each of these felonies carry their own weighty consequences. Perpetration, or attempted perpetration, of these felonies is not murder—so, why do we insist on punishing them as such if a homicide happens?

The United States remains virtually the only western country that still recognizes a legal principle that makes it possible "that the most serious sanctions known to law might be imposed for *accidental* homicide."[1] England abolished felony murder in 1957, and the doctrine never existed in France or Germany.[2]

[1] Jeffries & Stephan, *Defenses, Presumptions, and Burden of Proof in the Criminal Law*, 88

Sentences for the underlying felonies relied upon for attributing felony murder are harsh enough. All of those involved in that underlying felony should not be swept into the extreme level of culpability that our first-degree murder statute imposes. The current law absolves prosecutors of the need to prove causation or any level of intent for murder – you broke into the building to steal goods, so you are guilty of premeditated murder, even if you had nothing to do with the death that occurred at the scene. For burglary, the penalty can go up to 20 years. If a death occurred in the course of the felony, one of the murder charges are also appropriate – for the one doing the killing and anyone aiding in that action.

It should be simply unacceptable for prosecutors to argue that proof of murder is too hard. Given the weight of the State brought to bear on one who commits a crime and the stakes for one facing that force, there should be no shortcuts to determining culpability, no strict liability imputed for one who has not committed or aided the killing.

Though the felony murder doctrine should be deemed unconstitutional, its application to youthful offenders is even more tenuous. The doctrine allows the state to charge, convict, and sentence children to life imprisonment for murders they did not actually commit, just as it does with adults, on the theory that they should have foreseen that a death could occur. It does not matter whether the act was an accident (a lesser intent crime) or that the danger to the victim was recklessly disregarded (also a lesser intent crime) or whether they had nothing to do with act of killing.

The science has shown that young people are still in the developmental stages of cognition and thus do not have the capacity to contemplate the possible dangers of felonious activities that those who are older *might*. The characteristics attributed to those under the age of 18 include heightened impulsivity, greater sensitivity to peer and social influences, greater risk-taking, and immature decision making characterized by short-

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YALE LJ. 1325, 1383 (1979).
[2] Fletcher, *Reflections on Felony-Murder*, 12 SW. U.L. REV. 413, 415 (1981).

term thinking; trauma experienced in these early stages of development can be particularly damaging.[3] Relying on the Eighth Amendment's prohibition of cruel and unusual punishment, in *Graham v. Florida*, the Supreme Court pointed out that, "…compared to an adult murderer, a juvenile offender who did not kill or intend to kill has a twice diminished moral culpability."[4] Twice-diminished because the culpability that the law imputes to an adult is even more attenuated when we consider the ability of a youthful offender to anticipate what could potentially happen in the course of their lesser crime.[5]

And note that high school classes on felony murder should not be relied upon to build the cognitive capacity to create culpability. We simply have no basis for such a conclusion, particularly one with such dire consequences.

Allowing for resentencing of those who were children at the time of their felony murder convictions and who were not guilty of the killing is an important aspect of this legislation. Children in particular should not sit in prison for acts that they did not intend and did not do.

In sum, while I wish that we could join much of the rest of the world in completely eliminating felony murder, I am grateful for the critical step that this legislation takes in excluding children from the reach of this unjust provision in our law.

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[3] *See*, Rethinking Approaches to Over Incarceration of Black Young Adults in Maryland, Justice Policy Institute (November 2019) https://justicepolicy.org/research/policy-briefs-2019-rethinking-approaches-to-over-incarceration-of-black-young-adults-in-maryland/

[4] *Graham v. Florida*, 560 U.S. 48, 69 (2010)(holding that children could not be sentenced to life without parole for non-homicides). *See also* Linda M. B. Uttal & David H. Uttal, *Children Are Not Little Adults: Developmental Differences and the Juvenile Justice System*, LOYOLA PUBLIC INTEREST LAW REPORTER NO. 3, Summer 2010 (urging that children are not, and cannot be treated as, "little adults").

[5] The Supreme Court has considered the cognition and culpability of youthful offenders in a number of fairly recent cases. See e.g. *Roper v. Simmons*, 543 U.S. 551 (2005)(children cannot be executed for crimes); *Miller v. Alabama*, 567 U.S. 460 (2012)(the circumstances must be considered before imposing a sentence of life without parole on children); *J.D.B. v. North Carolina*, 564 U.S. 261 (2011)(concluding that children cannot be viewed as miniature adults for purposes of determining the effect of a *Miranda* warning).

SUPPORT HB 1190- _Youth Accountability and Safety
Uploaded by: Philip Caroom
Position: FAV

SUPPORT HB 1190 - Youth Accountability and Safety Act

MARYLAND ALLIANCE FOR JUSTICE REFORM
Working to end unnecessary incarceration and build strong, safe communities

To: Chair Luke Clippinger & House Judiciary Committee
From: MAJR Executive Committee
Date: February 26, 2025

Can a teenager, who foolishly goes along with a crowd when a crime is committed, be found guilty of 1st degree murder when another person commits a killing accidentally or without planning? Under Maryland's current "felony murder" rule, the answer is "yes"--and the presumed penalty would be a life sentence.

Maryland courts don't keep track of how often this rule is used; two other states have estimated it may involve 25% of their murder convictions. But, those studies suggest a disproportionate impact on juveniles who may receive life sentences under the rule for killings they did not commit.

Scientists, as well as the U.S. Supreme Court, have recognized that adolescents often exercise poor judgment, especially with peer pressure or substance abuse. But, in a matter of years, they can mature and become responsible citizens. Modern scientific studies document that these young people are less culpable and could be rehabilitated with much less than a life sentence. The felony murder rule was adopted in England during medieval times, but has been abandoned there, as well as in the rest of the United Kingdom, Canada, Ireland – and a number of other U.S. states (including Kentucky, Ohio, Michigan, California and others).

Does the felony-murder rule provide a deterrent? One survey found that less than 1% charged with felony-murder knew of the rule before their arrest. Another study has found no difference in the crime rates of states with and without the felony murder rule.

Importantly, the Youth Accountability and Safety Act –amended to be prospective only – would
-NOT compel the release of anyone previously convicted under felony murder's "guilt by association" system;
-NOT prevent the charging and convictions of juveniles with 1st degree murder if prosecutors can prove they participated in a "deliberate, premeditated and willful" killing-- or conspired or solicited such a killing; and
-NOT prevent the charging and convictions of juveniles with 2nd degree murder or manslaughter in appropriate cases.

Moreover, the State still would have no shortage of options to seek harsh sentences, even with passage of HB 1190. Here are some examples: a) If the State proves an emerging adult participated in a robbery that included premeditated (as opposed to an unplanned) killing, a 1st degree conviction and life sentence still could result. b) Even if premedication could not be proved, if the State proves knowing participation in a robbery with a handgun, a sentence of 20 years (robbery), plus 20 years consecutive (handgun), plus an additional 20 years (conspiracy) could result in a 60 year sentence for *each victim.* Compare Bishop v. State, 218 Md.App. 472 (2014). If there are two victims, the cumulative sentence again could be consecutive for 120 years; if there were three, 180 years is possible. All that is required is that the State must prove its case – rather than relying on the automatic guilt-by-association of the unjust and medieval felony murder rule.

Please give a favorable report to HB 1190 to make the most harsh provisions of Maryland law more just as applied to our emerging adults. -Phil Caroom

Please note: Phil Caroom provides this testimony for MAJR and not for the Md. Judiciary.

HB1190 Testimony - S Gravatt 2.2.25.pdf
Uploaded by: Steven Gravatt
Position: FAV

Bill: HB1190
Position: In Favor
Witness: Steven T. Gravatt
Organization: None
Submission Date: 2/24/2025

My name is Steven Gravatt and I am here to provide a juror's perspective on the felony murder rule.

In 2020 I was Alternate Juror #1 for a trial where the defendant was charged with Armed Robbery and Felony Murder in the First Degree. The defendant participated in a robbery where his accomplice accidentally killed the victim with a box cutter.

As a juror, I was torn between competing duties. On the one hand I wanted to do the right thing, and condemning a non-murderer to Murder One did not seem right. On the other hand I wanted to do my civic duty and apply the laws of the state as best I understood them. Since I had no reasonable doubt that the defendant had participated in a premeditated robbery or that the robbery had resulted in a death, that meant finding him guilty of First-Degree Murder. Whatever choice I made, I was going to feel bad about it. Fortunately for me, all of the "real" jurors made it to the end of the trial so I did not have to participate in rendering a verdict.

I later learned the jury found the defendant guilty of Armed Robbery but innocent of First-Degree Murder. There are two possible explanations for this illogical finding. The first is that the jury simply did not understand the law—after all, it is counterintuitive that the state would expect you to find a non-murderer guilty of murder. The other possible explanation is that the jurors willfully chose to disregard the law because they found it unjust.

The crux of my testimony is that the State of Maryland should not be asking its citizen jurors to enforce a law that is either (i) so illogical we are liable to misunderstand it or (ii) so contrary to our sense of justice that we choose to disregard it.

So long as the felony murder rule remains on the books, it is important that we reduce the charges associate with it. By removing the First-Degree Murder charge for minors convicted of felony murder, we will reduce the burden on jurors to condemn young people who have not murdered anyone to a lifetime in prison.

Steven Gravatt Felony Murder Oral Testimony 2.2.23

Uploaded by: Steven Gravatt

Position: FAV

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I later learned the jury found the defendant guilty of Armed Robbery **but** innocent of First Degree Murder. There are two possible explanation for this illogical finding. The first is that the jury simply didn't understand the law—after all, it's counterintuitive that the state would expect you to find a non-murderer guilty of murder. The other possible explanation is that the jurors willfully chose to disregard the law because they found it unjust.

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So long as the felony murder rule remains on the books, it's important that we reduce the charges associate with it. By removing the First Degree Murder charge for Marylanders under 25 convicted of felony murder, we will reduce the burden on juror's to condemn young people who haven't murdered anyone to a lifetime in prison.

HB 1190 - LBCMD Priority Bill.docx.pdf
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February 26, 2025

Chair Luke Clippinger
Judiciary Committee
100 Taylor House Office Building
Annapolis, Maryland 21401

Dear Chair Clippinger, Vice-Chair Bartlett, and Members of the Committee,

The Legislative Black Caucus of Maryland offers its strong and favorable support for House Bill 1190 (HB1190) – Youth Accountability and Safety Act. This bill ensures that individuals who were children at the time of an offense cannot be convicted of first-degree felony murder unless they were the principal actor. Additionally, it allows those previously convicted under outdated legal standards to seek review of their cases, providing a fair opportunity for reassessment based on their actual involvement in the crime. **This bill is a 2025 legislative priority for the Black Caucus.**

HB1190 is a critical step forward in advancing justice, particularly for African Americans who are disproportionately impacted by Maryland's criminal justice system. Black youth in Maryland are significantly overrepresented in serious criminal charges and sentencing disparities. A 2022 study from the Maryland Office of the Public Defender found that Black youth accounted for 70% of juvenile arrests despite comprising only 32% of the youth population. This bill directly addresses the unfair sentencing practices that have disproportionately harmed Black Marylanders.

The Legislative Black Caucus of Maryland strongly believes that our criminal justice system must prioritize fairness, rehabilitation, and second chances. Maryland has one of the highest racial disparities in youth incarceration in the country, with Black youth being six times more likely to be incarcerated than their white peers for similar offenses. Felony murder laws, which allow for convictions even when an individual did not directly commit the killing, have historically exacerbated these disparities.

HB1190 ensures that children are not unjustly convicted of first-degree felony murder if they were not the principal actor in the crime. The bill also offers a path for individuals previously sentenced under these outdated laws to seek review and possible resentencing, ensuring justice is applied fairly and retroactively.

A 2020 study by the Maryland Justice Project found that Black individuals are more likely to receive longer sentences for similar offenses compared to their white counterparts, exacerbating racial disparities in the state's prison system. HB1190 provides a needed path for reform, particularly for Black Marylanders who have been disproportionately impacted by these disparities. By preventing unjust felony murder convictions for youth and allowing for case reviews, the bill promotes a more equitable and rehabilitative approach to justice.

HB1190's provisions for conviction review offer a fairer legal process for those who have served significant time in prison for offenses they did not directly commit. Additionally, the bill's retroactive application ensures that those already incarcerated, including many Black individuals, can benefit from this opportunity for justice and redemption.

For Black communities in Maryland, the impact of this bill cannot be overstated. By providing an opportunity for individuals to have their cases reviewed, HB1190 fosters a more just and humane criminal justice system. The passage of this bill would represent a tangible step toward reversing the damaging effects of mass incarceration and ensuring that Black Marylanders who have shown rehabilitation and remorse are given a second chance at life outside of prison.

The Legislative Black Caucus of Maryland strongly supports HB1190 and its efforts to reform Maryland's sentencing practices. This bill reflects our commitment to a criminal justice system that promotes fairness, accountability, and rehabilitation, while also recognizing the systemic racial disparities that continue to affect Black Marylanders. We urge your support for HB1190, as it offers a thoughtful and proactive approach to addressing the harms caused by overly punitive sentencing practices.

For these reasons, the Legislative Black Caucus of Maryland strongly supports House Bill 1190.

Legislative Black Caucus of Maryland

Gibson-Banks Center Testimony - HB 1190.pdf
Uploaded by: Brandon Miller
Position: FWA

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

To: Delegate Luke Clippinger, Chair
Delegate J. Sandy Bartlett, Vice Chair
Members of the Judiciary Committee

From: Brandon Miller, Erek L. Barron Fellow, Monique L. Dixon, Executive Director, Michael Pinard, Faculty Director, Gibson-Banks Center for Race and the Law, University of Maryland Francis King Carey School of Law

Date: February 24, 2025

On behalf of the Gibson-Banks Center for Race and the Law ("Gibson-Banks Center" or "Center") at the University of Maryland Francis King Carey School of Law,[1] we appreciate the opportunity to submit testimony in support of House Bill 1190 ("HB 1190"), which would prohibit youth under the age of 18 from being charged with and convicted of felony murder in the first degree unless the individual was a principal in the first degree. We urge the committee to issue a favorable with amendments report on HB 1190 because the bill is a step in the right direction toward: (1) limiting the application of felony murder, a law that unfairly permits the intent to commit a felony to substitute for the *mens rea* required for a first-degree murder conviction; (2) responding to U.S. Supreme Court law and youth brain development science which has found that young people are impulsive, lack foresight, and therefore do not foresee the long term consequences of their actions; and (3) advancing racial justice by reducing the reach of felony murder, a charge and conviction which disproportionately burdens Black and Brown criminal defendants. We respectfully request an amendment that the limitation on felony murder be extended to individuals from the ages 18 to 24, in line with brain development science, which finds that people remain neurologically and psychologically immature into their mid 20s.

The Gibson-Banks Center works collaboratively to re-imagine and transform institutions and systems of racial inequality, marginalization, and oppression. Through education and

[1] This written testimony is submitted on behalf of the Gibson-Banks Center and not on behalf of the University of Maryland Francis King Carey School of Law or the University of Maryland, Baltimore.

engagement, advocacy, and research, the Center examines and addresses racial inequality and advances racial justice in a variety of focus areas, including the criminal legal system. In December 2024, the Gibson-Banks Center signed on to an amicus brief filed in a New York State appellate court raising concerns about that state's felony murder rule and its application in the case of a Black teenager.[2] It is with this background that we support HB 1190, which is a step toward what we believe should be the repeal of felony murder statutes in Maryland.

Due to the Felony Murder Law, Individuals Who Lacked the Mens Rea Required for Murder as Well as Individuals Who Did Not Commit a Fatal Act are Convicted of and Punished for First-Degree Murder. This is Unjust.

In Maryland, individuals who did not intend, foresee, or even cause a death may be punished for first-degree murder under the felony murder law. This results in unfair outcomes. For example, under the felony murder law, the individual who accidently kills another in the course of committing a felony may receive the same punishment and associated moral blame as the individual who intentionally commits murder. Moreover, under this rule, the individual who participates in a felony in which another participant unexpectedly kills someone may be guilty of murder and receive a mandatory life sentence with or without parole. The reasoning purporting to justify these outcomes is the notion that an individual's intent to commit a non-homicide felony, such as a robbery, is "transferred" to the unanticipated killing that results.[3] Thus, felony murder functions as a sort of loophole, enabling the state to obtain murder convictions without proving the *mens rea* otherwise required for murder.

The most intuitive and longstanding critique of the felony murder doctrine charges it with violating the principle of proportionality by punishing and stigmatizing as a murderer the individual who commits an unintentional killing or who did not kill at all.[4] Despite over a century of critique by scholars and legal professionals building on this insight, felony murder has persisted in state criminal codes in part because of its utility as a facilitator of racialized mass incarceration, an ongoing project sparked by War on Crime policies.[5] However, recent reforms in states such as California,[6] Colorado,[7] and Illinois[8] aimed at narrowing the applicability of felony murder reflect a growing need to reconsider the unsound logic, broad sweep, and

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[2] Brief of Antiracism and Community Lawyering Practicum et al. as Amici Curiae in Support of Defendant-Appellant, *People v. Dalen Joseph*, Case No. 2018-4813 (N.Y. App. Div. 2024).
[3] *State v. Allen*, 387 Md. 389, 401 (2005) (citation omitted).
[4] *See* Guyora Binder & Ekow N. Yankah, *Police Killings as Felony Murder*, 17 HARV. L. & POL'Y REV. 157, 173-74 (2022), https://digitalcommons.law.buffalo.edu/journal_articles/1044/.
[5] *Id*. at 225.
[6] S.B. 1437, 2017–2018 Leg., Reg. Sess. (Cal. 2018), https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201720180SB1437 (imposing new limitations on felony murder, such as requiring proof that a person who was not "the actual killer" aided, abetted, or otherwise induced the killer in the commission of the murder while possessing the intent to kill and requiring proof that a major participant in the underlying felony was recklessly indifferent to human life).
[7] S.B. 21-124, 73rd Gen. Assemb., 2021 Reg. Sess. (Colo. 2021), https://leg.colorado.gov/sites/default/files/2021a_124_signed.pdf (limiting felony murder to deaths caused by participants in the underlying felony and effectively reducing felony murder to a Class 2 felony with a term of years punishment, among other changes).
[8] H.B. 3653, 101st Gen. Assemb. (Ill. 2021), https://www.ilga.gov/legislation/101/HB/PDF/10100HB3653lv.pdf (limiting felony murder liability to deaths caused by participants in the underlying felony).

disproportionate harshness of felony murder laws. Certain states such as North Carolina[9] and Florida[10] have enacted reforms focusing on the application of felony murder to young people.

HB 1190 follows the lead of other states and represents progress toward reducing Maryland's inflated and racially disparate prison population by extending protection to young people, a population uniquely vulnerable to and harmed by felony murder prosecution.

Aside from the General Unfairness of the Felony Murder Law, the Characteristics of Youth, as Defined by the United States Supreme Court and Brain Development Science, Necessitate the Removal of Young People from the Scope of the Felony Murder Law.

HB 1190 aims to address the particular unfairness and incoherence that results from applying the felony murder law to people under 18. The logic of permitting the intent to commit the underlying felony to stand in for the intent required for murder presumes that a person who commits a felony foresees and appreciates that death may result from her conduct.[11] This presumption, which provides the justification for the retributive aspect of the felony murder rule, is undermined by the acknowledgement by brain scientists and the United States Supreme Court that youth struggle with foresight into the remote consequences of their actions.[12] Similarly, the deterrence rationale falls flat because "the propensity of children towards immediate rewards coupled with deficiencies in cost-benefit planning before the commission of a felony frustrates effective deterrence. It is thus both unsurprising and especially disturbing that the felony-murder doctrine has an outsized impact on young people."[13] Data from other states illustrate the outsized harm felony murder prosecutions inflict on young people. For example, in Pennsylvania, 73 percent of individuals convicted of felony murder serving life without parole sentences in 2019 were under 26 at the time of their offense.[14]

To better align with the brain development science, HB 1190 should expand its protections to individuals from the ages of 18 to 24. In providing sentencing protections to people under 18, the United States Supreme Court, drawing from brain science, relied on three culpability-diminishing characteristics of youth: impetuous decision-making, susceptibility to

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[9] N.C. Gen. Stat. §§ 14–17(a), 15A-1340.19A-B (2013) (eliminating life without parole sentences for individuals convicted of felony murder who were under 18 at the time of the offense).

[10] Fla. Stat. §§ 775.082(b)(2) (2014) (entitling a person convicted of felony murder who committed the offense before turning 18 and "who did not actually kill, intend to kill, or attempt to kill the victim" to a sentence review after 15 years).

[11] *See* Guyora Binder, *Making the Best of Felony Murder*, 91 B.U. L. REV. 403, 437-38 (2011), https://digitalcommons.law.buffalo.edu/journal_articles/287/.

[12] *Miller v. Alabama,* 567 U.S. 460, 477 (2012) (identifying the "failure to appreciate risks and consequences" as a defining feature of youth). Justice Breyer, in his *Miller* concurrence, spoke forcefully to the incongruence between youth and felony murder culpability, explaining that "the theory of transferring a defendant's intent is premised on the idea that one engaged in a dangerous felony should understand the risk that the victim of the felony could be killed, even by a confederate . . . Yet the ability to consider the full consequences of a course of action and to adjust one's conduct accordingly is precisely what we know juveniles lack capacity to do effectively." *Id.* at 492 (Breyer, J., concurring (citation omitted)).

[13] Antiracism and Community Lawyering Practicum et al., *supra* note 2, at 21.

[14] ANDREA LINDSAY, PHILADELPHIA LAWYERS FOR SOCIAL EQUITY: LIFE WITHOUT PAROLE FOR SECOND-DEGREE MURDER IN PENNSYLVANIA: AN OBJECTIVE ASSESSMENT OF RACE 1 (2021), https://www.plsephilly.org/wp-content/uploads/2021/04/PLSE_SecondDegreeMurder_and_Race_Apr2021.pdf.

peer influence, and a unique capacity for change.[15] Scientists now know that the physiological and psychological qualities of youth persist into a person's mid 20s. For example, a 2019 report from the National Academies of Sciences observed that "the unique period of brain development and heightened brain plasticity . . . continues into the mid-20s."[16] Additionally, it found that "most 18–25-year-olds experience a prolonged period of transition to independent adulthood, a worldwide trend that blurs the boundary between adolescence and 'young adulthood,' developmentally speaking."[17] Therefore, "it would be developmentally arbitrary in developmental terms" for HB 1190 "to draw a cut-off line at age 18" and leave unprotected an equally vulnerable age group.[18]

Applying felony murder to young people under the age of 25 is particularly disproportionate, given the transient structural disadvantages connected to youth and emerging adults that increase the risk of poor decision-making. On top of the disproportionality intrinsic to a law that authorizes first-degree murder convictions for people who either did not kill or did not intend to kill, felony murder liability is out of step with the diminished culpability of youth. Instead of the more humane response that such diminished culpability warrants, felony murder punishes harshly.

HB 1190 promotes a regime that is more sensible and just and more responsive to the "twice diminished moral culpability" of people under 18 who partake in felonies out of physiological immaturity but who "[do] not kill, or intend to kill."[19] However, it should follow its own logic to conclusion and encompass all people under 25.

The Felony Murder Law Promotes Racial Disparities in the Criminal Legal System.

The Gibson-Banks Center sees the felony murder law as an obstacle to racial justice and an equitable criminal legal system in Maryland. Unraveling the relationship between felony murder and racial inequality is particularly urgent in Maryland, a state where Black people constitute approximately 71 percent of the prison population while only comprising 31 percent of the state population.[20] Maryland's status as a nationwide leader in the sentencing of Black young adults to long prison terms further underscores the imperative.[21] All indications point to felony murder as a driver of these racial disparities in Maryland prisons.

While Maryland-specific data is unavailable (we also urge improved data collection specific to felony murder, including through charging documents that spell out instances when

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[15] *Roper v. Simmons,* 543 U.S. 551, 569-70 (2005)*; see also Montgomery v. Louisiana,* 577 U.S. 190, 206-07 (2016) (quoting *Miller v. Alabama,* 567 U.S. 460, 471).

[16] NATIONAL ACADEMIES OF SCIENCES, ENGINEERING, AND MEDICINE, THE PROMISE OF ADOLESCENCE: REALIZING OPPORTUNITY FOR ALL YOUTH 15 (2019), https://nap.nationalacademies.org/catalog/25388/the-promise-of-adolescence-realizing-opportunity-for-all-youth.

[17] *Id*.

[18] *Id*.

[19] *Graham v. Florida*, 560 U.S. 48, 69 (2010).

[20] JUSTICE POLICY INSTITUTE, THE RIGHT INVESTMENT 2.0: HOW MARYLAND CAN CREATE SAFE AND HEALTHY COMMUNITIES 4 (2024), https://justicepolicy.org/wp-content/uploads/2023/12/The-Right-Investment-2.0.pdf.

[21] JUSTICE POLICY INSTITUTE, RETHINKING APPROACHES TO OVER INCARCERATION OF BLACK YOUNG ADULTS IN MARYLAND 4 (2019) ("Nearly eight in 10 people who were sentenced as emerging adults and have served 10 or more years in a Maryland prison are black. This is the highest rate of any state in the country.").

individuals are specifically charged with this crime) statistics from other jurisdictions overwhelmingly show that felony murder prosecutions disproportionately and disparately harm Black people and other people of color. Racial disparities in felony murder charges and convictions prevail in states including California,[22] Connecticut,[23] Colorado,[24] Florida,[25] Illinois,[26] Massachusetts,[27] Minnesota,[28] Maine,[29] Michigan,[30] Missouri,[31] New Jersey,[32] New York,[33] Pennsylvania,[34] and Wisconsin.[35]

As amicus curae in *People v. Joseph* in December 2024, the Gibson-Banks Center highlighted the racial disproportionality of the application of the felony murder doctrine in New York. Citing to a forthcoming study by Professors Alexandra Harrington and Guyora Binder in the Iowa Law Review, amici curae discussed how Black New Yorkers were about 20 times more likely than White New Yorkers to be arrested for, and to be convicted of, felony murder.[36] Additionally, Hispanic New Yorkers were about 5 to 6 times more likely to be arrested and convicted of felony murder than White people.[37] Of 246 identified second-degree felony murder convictions—without an additional conviction for another theory of murder—from 2008-2019, 63% were Black defendants despite people identifying as "Black alone" comprising 18 percent of the overall state population.[38] White defendants made up 13% of second-degree felony murder convictions despite 69% of the state identifying as "White alone".[39] Black youth are particularly burdened: between the ages of 15 and 19, they were 23.7 times as likely to be arrested for felony murder as White youth in this age range.[40]

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[22] CAL. COMM. ON REVISION OF THE PENAL CODE, ANNUAL REPORT AND RECOMMENDATIONS 51 (2021).
[23] *Connecticut Data*, Felony Murder Reporting Project (Mar. 2023), https://felonymurderreporting.org/states/ct/.
[24] David C. Pyrooz, Demographics, Trends, and Disparities in Colorado Felony Murder Cases: A Statistical Portrait, 2 (2023), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4527501.
[25] *See* Brief of Antiracism and Community Lawyering Practicum et al. as Amici Curiae in Support of Petitioner at 5-6, *Baxter v. Fl. Dep't of Corrections*, Case No. 23-12275 (11th Cir. 2024).
[26] Kat Albrecht, *The Stickiness of Felony Murder: The Morality of a Murder Charge*, 92 MISS. L.J. 481, 501-505 (2023).
[27] *See* Brief of Boston University Center for Antiracist Research et al. as Amici Curiae in Support of Petitioner at 8-9, *Commonwealth v. Shepherd*, SJC-12405 (Mass. 2024).
[28] Greg Egan, *Deadly Force: How George Floyd's Killing Exposes Racial Inequities in Minnesota's Felony-Murder Doctrine Among the Disenfranchised, the Powerful, and the Police*, 4 MINN. J. INEQUALITY INQUIRY 1, 3-14 (2021), https://lawandinequality.org/wp-content/uploads/2021/03/Deadly-Force-Egan-1.pdf.
[29] *Maine Data*, Felony Murder Reporting Project (Feb. 2023), https://felonymurderreporting.org/states/me/.
[30] *Michigan Data*, Felony Murder Reporting Project (Mar. 2023), https://felonymurderreporting.org/states/mi/.
[31] *See* THE SENTENCING PROJECT, FELONY MURDER: AN ON-RAMP FOR EXTREME SENTENCING 5 (2022), https://www.sentencingproject.org/app/uploads/2024/05/Felony-Murder-An-On-Ramp-for-Extreme-Sentencing.pdf.
[32] *New Jersey Data*, Felony Murder Reporting Project (Apr. 2023), https://felonymurderreporting.org/states/nj/.
[33] Alexandra Harrington & Guyora Binder, *Racially Disparate and Disproportionate Punishment of Felony Murder: Evidence from New York*, 110 Iowa L. Rev. 1, 22-54 (forthcoming 2025), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4924732.
[34] LINDSAY, *supra* note 14 at 1.
[35] *Wisconsin Data*, Felony Murder Reporting Project (Mar. 2023), https://felonymurderreporting.org/states/wi/.
[36] Antiracism and Community Lawyering Practicum et al., *supra* note 2, at 4 (citing Harrington & Binder, *supra* note 33, at 6).
[37] *Id.* at 4-5 (citing Harrington & Binder, *supra* note 33, at 6).
[38] *Id.* at 5-6 (citing Harrington & Binder, *supra* note 33, at 45).
[39] *Id.* (citing Harrington & Binder, *supra* note 33, at 45).
[40] *Id.* at 9 (citing Harrington & Binder, *supra* note 33, at 28).

Scholars have found that racial bias infiltrates felony murder prosecutions, leading to racially disparate outcomes. The opportunity for racial bias to shape outcomes begins at the charging stage. Since a felony murder charge carries a lower burden of proof, in part because it does not require a showing of an intent to kill, evidentiary considerations and legal analysis play a diminished role in the decision-making process of a prosecutor contemplating felony murder charges.[41] The structure of felony murder law therefore opens the door for charging decisions to be based on racially charged "subjective indicia" of an individual's "blameworthiness" and "dangerousness" which may operate at an unconscious level.[42] "Indeed, substantial evidence reflects that 'racial disparities in prosecutors' use of discretion' including 'in decisions about which homicides to prosecute as felony-murder . . . directly disadvantages people of color.'"[43]

Racial stereotypes such as those regarding Black criminality similarly drive the decisions of juries and judges, further contributing to the punitive treatment of Black people and other groups under felony murder laws. A 2023 study on implicit bias in felony murder cases concluded that "police, prosecutors, defense counsel, judges, and jurors may possess a psychological baseline whereby they automatically perceive Black and Latino defendants as group members, not as individuals, inviting decisionmakers to indifferently impute guilt on Black and Latino defendants based upon mere association."[44] Amici curae in *People v. Joseph* emphasized the risk of racially inequitable jury determinations, stating: "[S]ince the felony-murder law does not require proof that the defendant intended to cause a death, jurors may operate with little information about the defendant's objectives, a situation which may invite racial bias to influence jury determinations."[45]

In the end, the impact of racial bias in felony murder prosecutions is self-perpetuating.[46] The more that racial tropes and prejudices precipitate felony murder convictions of Black people and other people of color, the greater the risk that decision-makers buy into stereotypes linking felony murder and the underlying concepts of dispersed moral failure and group criminality to these racialized groups, locking in a vicious cycle.

Maryland should join the list of states that have taken steps to limit or repeal felony murder. The basic principles underpinning the criminal legal system demand such an outcome. Human rights and racial justice amplify the urgency of the proposed change. For these reasons, we ask for a favorable with amendments report on HB 1190.

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[41] Perry Moriearty et. al., *Race, Racial Bias, and Imputed Liability Murder*, 51 FORDHAM URBAN L. J. 675, 733-34 (2024).
[42] *Id*. at 736, 738.
[43] Antiracism and Community Lawyering Practicum et al., *supra* note 2, at 11-12 (quoting THE SENTENCING PROJECT, *supra* note 31, at 6).
[44] G. Ben Cohen et al., *Racial Bias, Accomplice Liability, and the Felony Murder Rule: A National Empirical Study,* 101 DENVER L. REV. 65, 113 (2023).
[45] Antiracism and Community Lawyering Practicum et al., *supra* note 2, at 12.
[46] *See* Moriearty et al., *supra* note 41, at 740.

Testimony on HB 1190 FWA Cichowski.pdf
Uploaded by: Carol Cichowski
Position: FWA

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**

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[1] N. 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

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[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

Del Charlotte Crutchfield Testimony for HB 1190 Th

Uploaded by: Charlotte Crutchfield

Position: FWA

CHARLOTTE A. CRUTCHFIELD, ESQ.
Legislative District 19
Montgomery County

DEPUTY MAJORITY WHIP

Judiciary Committee
Subcommittees
Chair, Family and Juvenile Law
Public Safety

THE MARYLAND HOUSE OF DELEGATES
ANNAPOLIS, MARYLAND 21401

The Maryland House of Delegates
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Charlotte.Crutchfield@house.state.md.us

February 26, 2025

The House Judiciary Committee
The Honorable Luke Clippinger, Chair
100 Taylor Office Building
6 Bladen Street
Annapolis, MD 21401

Re: HB1190 The Youth Accountability and Safety Act

Dear Chair Clippinger, Vice-Chair Bartlett and Judiciary Committee:

House Bill 1190 will end the practice of charging juveniles with felony murder. Under current Maryland law, a juvenile can be convicted of first-degree murder even if they did not actually kill the victim or intend to commit a murder. Unlike pre-meditated first-degree murder, the State is not required to prove intent in order to obtain a conviction. For a felony murder conviction, the State need only prove that the juvenile was participating in a felony when a loss of life occurs. The mandatory sentence for a first-degree murder is a life sentence. Prospectively, this bill would prevent the State from seeking a felony murder conviction against a juvenile and end the practice of sentencing juveniles to life in prison for murders they have not actually committed.

The Supreme Court has recognized that children should be treated differently than adults in our criminal justice system for the purpose of sentencing in a series of decisions. The Court banned mandatory life without the possibility of parole sentences for juveniles convicted of non-homicide crimes in *Graham v. Florida*. In *Miller v. Alabama*, the Court extended its holding in *Graham* and held that mandatory life without the possibility of parole sentences in homicide cases are cruel and unusual under the Eighth Amendment. The Court based its decisions in both cases on a plethora of research from physicians and neuroscientists that demonstrates that the brain continues to develop well into a person's mid-20s, and the frontal cortex, which controls risk and impulse control is among the last parts to develop.

Charging juveniles with felony murder is inconsistent with the Supreme Court's rulings on juvenile sentencing. Proponents of the felony murder doctrine argue that it is an important deterrent. They claim that if individuals know that participation in an inherently dangerous felony could lead to culpability for a murder, even if one that he or she does not commit, they are less likely to commit the underlying felony. Assuming the doctrine really does hold some deterrent value, because juveniles are less able to anticipate risks and weigh their consequences, whatever deterrent effect the felony murder doctrine may have, is lost on juveniles.

Because felony murder is charged under the first-degree murder statute, it is unclear how many juveniles are serving a life sentence for a felony murder conviction. There are over 300 juveniles serving life sentences in Maryland. It stands to reason that a sizable portion of those individuals are serving sentences for a felony murder conviction. A recent analysis of Maryland's correctional population found that our system is rife with racial disparities. Eighty percent of individuals serving sentences of 10 years or more are young Black men, as are the vast majority of our state's juvenile lifers.

Abolishing felony murder for juveniles is consistent with emerging trends in Eighth Amendment jurisprudence and will bring Maryland in line with other states who have recognized the injustice of the doctrine including Michigan, Ohio, California, and Illinois. House Bill 1190 is about accountability and proportionality. Juveniles will still be held accountable for the crimes that they commit, can still be charged as adults, and in appropriate cases where there is evidence that a juvenile who played a direct role in the murder of another person, can be charged with first-degree pre-meditated murder, second degree murder, or conspiracy. In all other cases, juveniles will still be liable for the underlying felonies that they have committed. House Bill 1190 is about holding juveniles accountable for what they have done and will end the practice of sentencing them to life in prison for what they have not done. I urge you to support this important step towards a more just system for children in Maryland.

I respectfully request a favorable report for House Bill 1190 with Amendments.

Sincerely,

Charlotte Crutchfield

Delegate Charlotte Crutchfield

YEJ Clinic_HB1190_Fav_with_Amendment.pdf
Uploaded by: Tyler Mazur
Position: FWA

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)

Date: February 24, 2025

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.

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[1] *See* Mariam Araim 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.

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[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).

HB 1190 - Criminal Law - Youth Accountability and
Uploaded by: Scott Shellenberger
Position: UNF

Bill Number: HB 1190
Scott D. Shellenberger, State's Attorney for Baltimore County
Opposed

WRITTEN TESTIMONY OF SCOTT D. SHELLENBERGER,
STATE'S ATTORNEY FOR BALTIMORE COUNTY,
IN OPPOSITION OF HOUSE BILL 1190
CRIMINAL LAW – YOUTH ACCOUNTABILITY AND SAFETY ACT

I write in opposition to House Bill 1190 that will change a fundamental part of the criminal law that has been around for many years.

The felony murder rule traces its roots back to England and arrived in Maryland as part of the Common Law. The concept has been codified in Criminal Law 2-201. It has been in effect in Maryland for a very, very long time. The concept is simple two or more individuals are joinly participating in an inherently dangerous felony like a robbery with a handgun. One of them shoots and kills the victim. Both can be charged with felony murder even though only one did the shooting. The concept relies on the fact that everyone that participates in a dangerous felony is responsible for all acts that occur. Your intent of committing the felony transfers to all acts.

An example of how this works is the horrible case of the death of Officer Amy Caprio. All four of the defendants charged in the death of Officer Amy Caprio were juveniles. The four defendants stole a car and were in the Perry Hall area of Baltimore County breaking into houses. Their method was for three to break into homes and one to man the getaway car. The one who was in the driver's seat was Dawnta Harris when he was confronted by Officer Amy Caprio. Harris purposefully drove over Officer Caprio killing her. The driver, Dawnta Harris, who killed Office Caprio was 16 years old when he committed his crime. He ran over Officer Caprio in cold blood. Officer Caprio confronted Harris when he was behind the wheel. He pretended to open the car door but then gunned the car running over her. He was convicted for first degree felony murder and received a life sentence. His co-defendants were breaking into houses and each were convicted of Felony Murder and received 30 years in prison.

The Caprio case shows that you should not take away the crime of Felony Murder. But for the three co-defendants breaking into multiple houses they would not have needed a get away driver. The adjustment of culpability can be made in the sentence not in the crime. That is what happened in this case. The driver Harris got a life sentence. His co-defendants got 30 years each.

I urge an unfavorable report.

hb1190.pdf
Uploaded by: Will Vormelker
Position: UNF

HON. STACY A. MAYER
CIRCUIT COURT
JUDGE
BALTIMORE COUNTY
CHAIR

HON. RICHARD SANDY
CIRCUIT COURT
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MARYLAND JUDICIAL COUNCIL
LEGISLATIVE COMMITTEE

MEMORANDUM

TO:	House Judiciary Committee
FROM:	Legislative Committee Suzanne D. Pelz, Esq. 410-260-1523
RE:	House Bill 1190 Criminal Law – Youth Accountability and Safety Act
DATE:	February 12, 2025 (2/26)
POSITION:	Oppose

The Maryland Judiciary opposes House Bill 1190.

This Judiciary takes no position on the provision of the bill that preclude minors from being convicted of first degree murder unless the minor is a principal in the first degree. That provision is within the legislature's constitutional prerogative to make public policy determinations.

The Judiciary is opposed to the provisions, beginning on page 3, line 23, which require a court to conduct an evidentiary hearing reviewing convictions previously rendered by a judge or jury. The review appears to invade the province of the previous factfinder, including juries, and this potential nullification of a jury's verdict presents constitutional concerns. Additionally, given that it is an evidentiary hearing, the review is effectively a re-trial in order to determine whether or not to grant a new trial. This places courts in the unusual position of making factual findings at a post-conviction, but pre-new trial stage.

The bill also provides that if the court does not find that there is a substantial or significant possibility that the moving party could be found guilty, the court may vacate

the conviction. This standard of review differs from those traditionally applicable and presents concern about the clarity of its application.

cc. Hon. Charlotte Crutchfield
Judicial Council