

SENATE BILL 919

E1, E2

0lr2459
CF HB 1308

By: **Senator Carter**

Introduced and read first time: February 3, 2020

Assigned to: Judicial Proceedings

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 12, 2020

CHAPTER _____

1 AN ACT concerning

2 **Criminal Law – ~~Felony First Degree Murder – Limitation and~~**
3 **~~Review of Conviction~~ Task Force to Study Felony Murder**

4 FOR the purpose of ~~altering the elements of murder in the first degree to require that a~~
5 ~~certain murder be committed by a principal in the first degree in the perpetration of~~
6 ~~or an attempt to perpetrate a certain crime, rather than any participant in the crime;~~
7 ~~authorizing a certain person to apply for a review of conviction under certain~~
8 ~~circumstances; requiring a court to hold a hearing at a certain time to make a certain~~
9 ~~determination; requiring the court to take certain actions under certain~~
10 ~~circumstances; prohibiting the court from increasing the sentence of a certain person;~~
11 ~~requiring the court to notify the State's Attorney of a certain application for review~~
12 ~~of conviction; prohibiting a person from filing more than one application for review~~
13 ~~of conviction; establishing the Task Force to Study Felony Murder for Principals in~~
14 ~~the First Degree; providing for the composition, chair, staffing, and duties of the Task~~
15 ~~Force; prohibiting a member of the Task Force from receiving certain compensation;~~
16 ~~but authorizing reimbursement of certain expenses; requiring the Task Force to~~
17 ~~report its findings to the Governor and the General Assembly on or before a certain~~
18 ~~date; providing for the termination of certain provisions of this Act; and generally~~
19 ~~relating to felony first degree murder~~ establishing the Task Force to Study Felony
20 Murder; providing for the composition, chair, and staffing of the Task Force;
21 prohibiting a member of the Task Force from receiving certain compensation, but
22 authorizing the reimbursement of certain expenses; requiring the Task Force to
23 study and make recommendations regarding certain matters; requiring the Task
24 Force to report its findings and recommendations to the Governor and the General

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 Assembly on or before a certain date; providing for the termination of this Act; and
 2 generally relating to the Task Force to Study Felony Murder.

3 ~~BY repealing and reenacting, with amendments,~~
 4 ~~Article — Criminal Law~~
 5 ~~Section 2-201~~
 6 ~~Annotated Code of Maryland~~
 7 ~~(2012 Replacement Volume and 2019 Supplement)~~

8 ~~BY repealing and reenacting, without amendments,~~
 9 ~~Article — Criminal Law~~
 10 ~~Section 2-204~~
 11 ~~Annotated Code of Maryland~~
 12 ~~(2012 Replacement Volume and 2019 Supplement)~~

13 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
 14 That ~~the Laws of Maryland read as follows:~~

15 (a) There is a Task Force to Study Felony Murder.

16 (b) The Task Force consists of the following members:

17 (1) two members of the Senate of Maryland, appointed by the President of
 18 the Senate;

19 (2) two members of the House of Delegates, appointed by the Speaker of
 20 the House;

21 (3) the Attorney General, or the Attorney General's designee;

22 (4) the Executive Director of the Maryland State Commission on Criminal
 23 Sentencing Policy, or the Executive Director's designee;

24 (5) the president of the Maryland State's Attorneys' Association, or the
 25 president's designee;

26 (6) the Public Defender, or the Public Defender's designee;

27 (7) a representative of a group that advocates for the victims of crime,
 28 appointed by the Governor; and

29 (8) an expert in the subject of criminal sentencing, appointed by the
 30 Executive Director of the Maryland State Commission on Criminal Sentencing Policy.

31 (c) The Task Force shall select a chair of the Task Force from among its members.

32 (d) The Department of Legislative Services shall provide staff for the Task Force.

1 (e) A member of the Task Force:

2 (1) may not receive compensation as a member of the Task Force; but

3 (2) is entitled to reimbursement for expenses under the Standard State
4 Travel Regulations, as provided in the State budget.

5 (f) The Task Force shall:

6 (1) review the provisions, penalties, and jurisprudence for felony murder,
7 including its applicability to juveniles, in the State and in other states;

8 (2) make recommendations regarding the current statutory scheme for
9 felony murder, including:

10 (i) applicability of felony murder to juveniles;

11 (ii) whether felony murder should be legislatively abolished;

12 (iii) whether the provisions and penalties for felony murder should
13 be altered, and if so, whether any alterations to the provisions or penalties should be
14 applied prospectively, retroactively, or both prospectively and retroactively, and by what
15 process.

16 (g) On or before December 31, 2020, the Task Force shall report its findings and
17 recommendations to the Governor and, in accordance with § 2-1257 of the State
18 Government Article, the General Assembly.

19 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July
20 1, 2020. It shall remain effective for a period of 1 year and, at the end of June 30, 2021, this
21 Act, with no further action required by the General Assembly, shall be abrogated and of no
22 further force and effect.

23 ~~Article—Criminal Law~~

24 ~~2-201.~~

25 (a) ~~A murder is in the first degree if it is:~~

26 (1) ~~a deliberate, premeditated, and willful killing;~~

27 (2) ~~committed by lying in wait;~~

28 (3) ~~committed by poison; or~~

~~(4) committed BY A PRINCIPAL IN THE FIRST DEGREE in the
perpetration of or an attempt to perpetrate:~~

~~(i) arson in the first degree;~~

~~(ii) burning a barn, stable, tobacco house, warehouse, or other
outbuilding that:~~

~~1. is not parcel to a dwelling; and~~

~~2. contains cattle, goods, wares, merchandise, horses, grain,
hay, or tobacco;~~

~~(iii) burglary in the first, second, or third degree;~~

~~(iv) carjacking or armed carjacking;~~

~~(v) escape in the first degree from a State correctional facility or a
local correctional facility;~~

~~(vi) kidnapping under § 3-502 or § 3-503(a)(2) of this article;~~

~~(vii) mayhem;~~

~~(viii) rape;~~

~~(ix) robbery under § 3-402 or § 3-403 of this article;~~

~~(x) sexual offense in the first or second degree;~~

~~(xi) sodomy; or~~

~~(xii) a violation of § 4-503 of this article concerning destructive
devices.~~

~~(b) (1) A person who commits a murder in the first degree is guilty of a felony
and on conviction shall be sentenced to:~~

~~(i) imprisonment for life without the possibility of parole; or~~

~~(ii) imprisonment for life.~~

~~(2) Unless a sentence of imprisonment for life without the possibility of
parole is imposed in compliance with § 2-203 of this subtitle and § 2-304 of this title, the
sentence shall be imprisonment for life.~~

1 ~~(e) A person who solicits another or conspires with another to commit murder in~~
2 ~~the first degree is guilty of murder in the first degree if the death of another occurs as a~~
3 ~~result of the solicitation or conspiracy.~~

4 ~~(D) (1) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, A PERSON~~
5 ~~CONVICTED ON OR BEFORE SEPTEMBER 30, 2020, OF MURDER IN THE FIRST~~
6 ~~DEGREE UNDER SUBSECTION (A)(4) OF THIS SECTION WHO WAS NOT A PRINCIPAL IN~~
7 ~~THE FIRST DEGREE MAY APPLY FOR REVIEW OF CONVICTION AT ANY TIME WHILE~~
8 ~~INCARCERATED OR UNDER SUPERVISION.~~

9 ~~(2) (i) ON APPLICATION FOR REVIEW OF CONVICTION UNDER~~
10 ~~PARAGRAPH (1) OF THIS SUBSECTION, THE COURT SHALL HOLD A HEARING TO~~
11 ~~DETERMINE, AFTER CONSIDERATION OF ALL THE EVIDENCE, WHETHER THE~~
12 ~~APPLICANT COULD BE FOUND GUILTY OF MURDER IN THE FIRST DEGREE ON OR~~
13 ~~AFTER OCTOBER 1, 2020.~~

14 ~~(ii) IF THE COURT DOES NOT FIND BEYOND A REASONABLE~~
15 ~~DOUBT THAT THE APPLICANT COULD BE FOUND GUILTY OF MURDER IN THE FIRST~~
16 ~~DEGREE ON OR AFTER OCTOBER 1, 2020, THE COURT MAY VACATE THE~~
17 ~~CONVICTION, RESENTENCE, GRANT A NEW TRIAL, OR CORRECT THE SENTENCE, AS~~
18 ~~THE COURT CONSIDERS APPROPRIATE.~~

19 ~~(3) THE COURT MAY NOT INCREASE THE SENTENCE OF AN APPLICANT~~
20 ~~UNDER THIS SUBSECTION.~~

21 ~~(4) THE COURT SHALL NOTIFY THE STATE'S ATTORNEY OF AN~~
22 ~~APPLICATION FOR REVIEW OF CONVICTION.~~

23 ~~(5) A PERSON MAY NOT FILE MORE THAN ONE APPLICATION FOR~~
24 ~~REVIEW OF CONVICTION UNDER PARAGRAPH (1) OF THIS SUBSECTION.~~

25 ~~2-204.~~

26 ~~(a) A murder that is not in the first degree under § 2-201 of this subtitle is in the~~
27 ~~second degree.~~

28 ~~(b) A person who commits a murder in the second degree is guilty of a felony and~~
29 ~~on conviction is subject to imprisonment not exceeding 40 years.~~

30 ~~SECTION 2. AND BE IT FURTHER ENACTED, That:~~

31 ~~(a) There is a Task Force to Study Felony Murder for Principals in the First~~
32 ~~Degree.~~

33 ~~(b) The Task Force consists of the following members:~~

1 ~~(1) one member of the Senate of Maryland, appointed by the President of~~
2 ~~the Senate, from the county with the highest per capita murder rate;~~

3 ~~(2) one member of the Senate of Maryland, appointed by the President of~~
4 ~~the Senate, from the county with the second highest per capita murder rate;~~

5 ~~(3) one member of the Senate of Maryland, appointed by the President of~~
6 ~~the Senate, from the county with the third highest per capita murder rate;~~

7 ~~(4) one member of the House of Delegates, appointed by the Speaker of the~~
8 ~~House, from the county with the highest per capita murder rate;~~

9 ~~(5) one member of the House of Delegates, appointed by the Speaker of the~~
10 ~~House, from the county with the second highest per capita murder rate;~~

11 ~~(6) one member of the House of Delegates, appointed by the Speaker of the~~
12 ~~House, from the county with the third highest per capita murder rate;~~

13 ~~(7) the Attorney General, or the Attorney General's designee;~~

14 ~~(8) the Executive Director of the Maryland State Commission on Criminal~~
15 ~~Sentencing Policy, or the Executive Director's designee;~~

16 ~~(9) the president of the Maryland State's Attorneys' Association, or the~~
17 ~~president's designee;~~

18 ~~(10) an expert in the subject matter of criminal sentencing, selected by the~~
19 ~~president of the Maryland State's Attorneys' Association and appointed by the presiding~~
20 ~~officers;~~

21 ~~(11) the Public Defender, or the Public Defender's designee;~~

22 ~~(12) an expert in the subject matter of criminal sentencing, selected by the~~
23 ~~Public Defender and appointed by the presiding officers; and~~

24 ~~(13) the chair of the Conference of Circuit Judges, or the chair's designee, as~~
25 ~~a nonvoting member.~~

26 ~~(e) The members of the Task Force shall designate the chair of the Task Force.~~

27 ~~(d) The Department of Legislative Services shall provide staff for the Task Force.~~

28 ~~(e) A member of the Task Force:~~

29 ~~(1) may not receive compensation as a member of the Task Force; but~~

1 ~~(2) is entitled to reimbursement for expenses under the Standard State~~
2 ~~Travel Regulations, as provided in the State budget.~~

3 ~~(f) The Task Force shall:~~

4 ~~(1) review the provisions, penalties, and jurisprudence in the State for~~
5 ~~felony murder as it applies to principals in the first degree;~~

6 ~~(2) study the provisions, penalties, and jurisprudence in other states for~~
7 ~~felony murder; and~~

8 ~~(3) make recommendations regarding the current statutory scheme for~~
9 ~~felony murder as it applies to principals in the first degree throughout the Maryland Code,~~
10 ~~including whether:~~

11 ~~(i) felony murder for principals in the first degree is constitutional,~~
12 ~~under either the U.S. Constitution or the Maryland Constitution;~~

13 ~~(ii) felony murder for principals in the first degree should be~~
14 ~~legislatively abolished; and~~

15 ~~(iii) the provisions or penalties for felony murder for principals in the~~
16 ~~first degree should be altered, and whether any alterations should be applied prospectively,~~
17 ~~retroactively, or both, and by what process.~~

18 ~~(g) On or before December 31, 2021, the Task Force shall report its findings and~~
19 ~~recommendations to the Governor and, in accordance with § 2-1257 of the State~~
20 ~~Government Article, the General Assembly.~~

21 ~~SECTION 3. AND BE IT FURTHER ENACTED, That Section 1 of this Act shall take~~
22 ~~effect October 1, 2020.~~

23 ~~SECTION 4. AND BE IT FURTHER ENACTED, That, except as provided in Section~~
24 ~~3 of this Act, this Act shall take effect June 1, 2020. Section 2 of this Act shall remain~~
25 ~~effective for a period of 2 years and 1 month and, at the end of June 30, 2022, Section 2 of~~
26 ~~this Act, with no further action required by the General Assembly, shall be abrogated and~~
27 ~~of no further force and effect.~~