



## SUPPORT SB 919 & SB 951

Testimony of Phil Caroom for MAJR [exec.com](http://exec.com).

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Maryland Alliance for Justice Reform (MAJR - [www.ma4jr.org](http://www.ma4jr.org)) supports modification of Maryland's felony murder rule, a legal fiction which unjustly incarcerates so many with life sentences.

SB 919 limits felony murder to "principals in the first degree" (primarily perpetrators), permits a retroactive motion to modify sentence for those convicted under the old law, and creates a Taskforce to Study Felony Murder in Maryland as some applications still would exist.

SB 951 modifies the current statutes for first degree to include only premeditated murder and second degree murder statutes to include felony-murders as punishable by a maximum of 40 years incarceration. On petition, a court could resentence those now serving felony-murder sentences under the new second degree law to reduce current life sentences not to exceed 40 years.

**What's the problem?** Can people be found guilty of murder and sentenced to life in prison if the Court knows they didn't kill anyone? In Maryland, the answer is yes because of our State's legal-fiction known as the "felony-murder rule."

Here are actual examples approved by Maryland courts: Someone who intended participation in only a much lesser crime (for example, robbery with no weapon or burglary) can receive a life-sentence if they had the bad luck of:

- a) police shooting someone during the arrest,
- b) an unhealthy victim having a heart attack, or
- c) an accomplice spontaneously panicking and committing an unplanned killing. (More details follow on page 2.)

Should bad luck be the decisive factor for the Court's imposing life sentences? In England, where the felony-murder rule was invented, the answer is no. There, the felony-murder rule was repealed there many years ago. It also has been changed in Canada and elsewhere in the former British Empire; in the U.S., the rule has been changed in Kentucky, Ohio, Michigan, California and other states.

Maryland doesn't keep statistics on the percentage of its 2,328 life-sentence prison inmates convicted via felony-murder. But, other states' surveys have found women and juveniles are impacted disproportionately:

- **72% of women sentenced for felony-murder did not personally commit a killing; and**
- **The average age of those convicted of felony-murder was 20 years old.**

In Maryland, life sentences for felony-murder are still more harsh as most Governors veto the huge majority of lifers' parole recommendations.

**Other policy considerations:** Does the felony-murder rule provide a deterrent? One survey found that **fewer than 1% charged with felony-murder knew of the rule before their arrest.**

How would such resentencing impact the State? Clearly, such costs should be offset by savings of reduced incarceration for those no longer serving time at [\\$40,000 per year per person. Particularly, older inmates have been shown to have much higher medical costs on average, so actual saving could be double the normal annual cost per inmate.](#)

Would this statute present difficulties in application?: While resentencing hearings would be required, the State would not retry guilt or innocence as a murder convictions in SB 951 and felony convictions in SB 919 still could remain in place. Victims again would have an opportunity to be heard. The State and the Courts previously have demonstrated good ability efficiently to absorb hundreds of sentence reviews with the adoption of Maryland's Justice Reinvestment Act and the Unger decision.

Would public safety be put at risk by earlier release from 40 year sentences than from life sentences?: Studies suggest that the answer is "no." Prison inmates' recidivism rate drastically drops with age such that, by age 50, inmates' recidivism for all types of offenses is in the single digits — vs. the average Maryland recidivism rate for all types—including much younger offenders— of 41% recidivism within 3 years.

For all these reasons, MAJR urges a favorable report on SB 919 & SB 951.

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*PLEASE NOTE: Phil Caroom offers this testimony for MAJR and not for the Md. Judiciary*  
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## PLEASE SEE ILLUSTRATIONS OF FELONY-MURDER & OTHER REFERENCES ON PG. 2

### **Specific examples of Maryland's felony-murder rule:**

Jeter agreed with an accomplice to break into a men's clothing warehouse (*maximum penalty 15 years*) ; police responded and promptly arrested Jeter, who was unarmed. After his arrest, the accomplice still in the warehouse allegedly shot and killed a security officer.

Maryland courts approved Jeter's felony-murder conviction (*penalty - life in prison*), even though the killing by the accomplice occurred after Jeter already was in police custody. The accomplice later was not found guilty. Jeter v. State, 9 Md.App. 575 (1970), cert. 261 Md. 221 (1971).

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Jackson and accomplices planned to rob a jewelry store carrying guns (*maximum penalty - 25 years*); when police arrived, they held store employees hostage and attempted to escape.

Although Jackson and his accomplices killed no one, police accidentally shot a store employee and Maryland courts convicted Jackson of felony-murder (*penalty - life in prison*). Jackson v. State, 286 Md. 430 (1979).

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Stewart robbed a motel clerk with a note that read "Don't say a word. Put all the money in this bag and no one will get hurt!" (*maximum penalty - 10 years*) The clerk didn't see a gun and none was found. Prior to the event, the clerk had surgery for cancer and one lung was surgically removed. Two hours after the robbery, she felt ill, had trouble breathing, and died of a heart attack. Maryland courts, applying the felony-murder rule, approved the robber's conviction for *1st degree murder, eligible for a life sentence*. Stewart v. State, 65 Md.App. 372 (1985) cert den. 305 Md. 599.

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Four teenagers agreed to burglarize a house (*maximum penalty - 20 years*). But, while three were inside, the fourth behind the wheel of the getaway car saw a police officer approaching, panicked and ran her over, killing her.

Applying *Maryland's felony-murder rule*, *all four teens were eligible for life sentences* although none planned to kill anyone. Tragic death of Officer Amy Caprio - See Baltimore Sun, article 9/30/19.

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### **Learn More!**

Felony Murder (Critical Perspectives on Crime and Law) by Guyora Binder <https://www.amazon.com/gp/product/B007X57VPM/>

The Marshall Project asks: Can It Be Murder If You Didn't Kill Anyone? <https://www.themarshallproject.org/2018/06/27/can-it-be-murder-if-you-didn-t-kill-anyone>

Restore Justice: Know More: Felony Murder <https://restorejustice.org/know-more-felony-murder/>

Abolish felony murder in Maryland, Lila Meadows, University of Maryland Clinical Law Program <https://www.baltimore-sun.com/opinion/op-ed/bs-ed-op-0610-felony-murder-20190607-story.html>

Why Did I Serve 16 Years for Murder When I Didn't Kill Anyone? <https://youtu.be/jKGy8TIGMDI>