

**MARYLAND JUDICIAL CONFERENCE**  
**GOVERNMENT RELATIONS AND PUBLIC AFFAIRS**

Hon. Mary Ellen Barbera  
Chief Judge

187 Harry S. Truman Parkway  
Annapolis, MD 21401

**MEMORANDUM**

**TO:** House Judiciary Committee  
**FROM:** Legislative Committee  
Suzanne D. Pelz, Esq.  
410-260-1523  
**RE:** House Bill 1338  
Criminal Law – Felony First-Degree Murder – Limitation and  
Review of Conviction for Children  
**DATE:** February 26, 2020  
(3/5)  
**POSITION:** Oppose

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The Maryland Judiciary opposes House Bill 1338. House Bill 1338 relates to felony murder, a murder committed in the perpetration of or an attempt to perpetrate any of the felonies enumerated in Section 2-201(a)(4) of the Criminal Law Article. House Bill 1338 would establish that a child perpetrator, defined as a person who was under the age of eighteen at the time of the offense, may not be found to have committed murder in the first degree if the murder was based solely on the circumstance that the murder was committed in the perpetration of or an attempt to perpetrate an enumerated felony. House Bill 1338 would authorize a person under the age of eighteen previously convicted of murder in the first degree under Criminal Law §2-201(a)(4) to file a motion for review of conviction at any time while incarcerated or under supervision.

This bill effectively requires a re-trial by a court of a jury's findings to determine whether a defendant convicted of first-degree felony murder on or before September 30, 2020 could be found guilty of murder in the first degree after September 30, 2020. This places courts in the position of making findings of guilt for first-degree murder which is a task appropriately left to juries.

The bill also provides that if the court does not find that there is a substantial or significant possibility that the applicant could be found guilty, the court may vacate the conviction. This language is confusing and unworkable.

The bill also requires the court to notify the State's Attorneys' offices when applications for review of convictions are filed by persons convicted of felony-murder, a notice more appropriately left to the applicant.

cc. Hon. Charlotte Crutchfield  
Judicial Council