

## SUPPORT HB 1338 - FELONY-MURDER - CHILDREN



Maryland Alliance for Justice Reform (MAJR - [www.ma4jr.org](http://www.ma4jr.org)) supports modification of Maryland's felony murder rule, particularly HB 1338 that would repeal current than the legal fiction which unjustly incarcerates so many who have become involved as juveniles at a time when their mental maturity is incomplete, as recognized by American courts.

**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.

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 There, the felony-murder rule was repealed there many years ago.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**
- **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.

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.**

**Felony - Murder option now before the committee:** The U.S. Supreme Court has ruled repeatedly, between 2005 and 2016, that a different standard must be applied to children than is applied to adults in cases which could result in their receiving the death penalty or life without parole. This is because "as any parent knows," juveniles are recognized to inherently to suffer from developmental "transient rashness, proclivity for risk, and inability to assess consequences"; however, they are capable with maturity of growing out of these traits. For all these reasons, the Court has called upon lawmakers to avoid mandatory penalties and to permit individualized sentencing that permits judges discretion to carefully consider the individual circumstances and traits of juvenile offenders before possibly imposing the most harsh penalties.

This same set of considerations should apply to Maryland's Felony-Murder rule that, currently, automatically exposes juvenile participants to life sentences, even if the played only peripheral roles in an offense and even if they did not foresee the fatal outcome.

**Would such resentencing burden the State or the Courts?:** Reviews of convictions would not be difficult, as the Courts and counsel easily could rely on evidence from plea agreements and closing arguments to obtain stipulations. Hearings would not need to constitute new trials. Clearly, such costs should be offset by savings of reduced incarceration for those no longer serving time at \$40,000 per year per person.

Will State's Attorneys be unable to get appropriate convictions without the first-degree felony-murder rule? Nothing in HB 1338 would prevent a first-degree murder conviction for a juvenile who, himself, perpetrated a premeditated murder. Nothing in HB 1338 would prevent a juvenile from being convicted (or resentenced under the review of conviction provision) for a felony in which he deliberately participated.

For all these reasons, MAJR urges approval of HB 1338.

*PLEASE NOTE: Phil Caroom offers this testimony for MAJR and not for the Md. Judiciary.*

### **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.baltimoresun.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>