

MARYLAND ALLIANCE FOR JUSTICE REFORM

Working to end unnecessary incarceration and build strong, safe communities



Felony Murder Rule

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 and didn't intend to kill anyone? In Maryland, the answer is yes, because of our state's longstanding policy known as the "felony murder doctrine."

Someone who intended participation only in a much lesser crime (for example, a burglary or robbery with no weapon) can receive a life sentence if

- police shot someone during the arrest
- a victim died of a heart attack
- an accomplice panicked and committed an unplanned killing

[Take a look at specific examples in Maryland.](#)

How many "murders" are felony murders?

Maryland doesn't keep statistics on its [2,212 life-sentence prisoners](#). However, based on studies of Pennsylvania and Michigan, approximately 25% of first-degree murder convictions arose from the felony murder doctrine and the balance from premeditated murder.

Surveys noted that 72% of women sentenced for felony murder did not personally commit a killing, and the majority of defendants convicted of felony murder were under 25—before human brains fully mature. Moreover, fewer than 1% charged with felony murder [knew of the rule before their arrest](#).

How can we improve the felony murder rule?

Most felony murder reforms would permit retroactive sentence modifications. For example, [Hawaii](#), [Kentucky](#), Massachusetts, and Michigan have legislatively abolished the rule. Both [Pennsylvania](#) and [Illinois](#) have bills under consideration. In February 2019, [California](#) substantially narrowed that state's felony murder law to eliminate all but "major" felony participants with "reckless disregard" for human life.

Many models are available for a Maryland bill to revise our unfair felony murder rule. Options include:

- repealing the felony murder doctrine and instead requiring the state always to prove first-degree murder to obtain a life sentence;
- modifying the felony murder doctrine to apply only to the actual perpetrator;
- modifying the felony murder doctrine to "felony homicide" so that the enhanced penalty would not be a life sentence, but perhaps an additional penalty for manslaughter (up to 10 years consecutive to any other sentence); and/or

- repealing the felony murder doctrine only for youthful offenders, whose brains have not yet fully matured.

Proposed legislation

Here is [one possible draft for a 2023 bill to reform Maryland's felony murder doctrine](#) by combining the most effective elements of other states' reforms. This draft would:

- make the felony murder doctrine inapplicable to any juvenile offender,
- make the felony murder convictions for first-degree murder applicable only to "first-degree principals," and
- provide that other participants (second-degree principals) in the felony may receive the same additional 10-year sentence as for other unintended killings (manslaughter).

Retroactivity provisions

Proposed retroactivity of the 2023 felony murder reforms would not overwhelm the judiciary or State's Attorneys with retrials. Based on the above estimates, Maryland prisons may hold 500 citizens with felony murder convictions; this is substantially fewer than the [582 Justice Reinvestment](#) sentence modifications handled by Maryland courts and prosecutors in 2017. Modification hearings for juvenile offenders would be simple; felony murder convictions of first-degree principals would not be modified. The court could order a new trial in the rare cases where a transcript did not provide sufficient information on the record for resentencing.

Would resentencing hearings present a burden to the state? In recent years, Maryland courts have efficiently dealt with similar changes under the state's Justice Reinvestment Act. Any costs should be offset by savings as a result of reduced sentences and incarceration time. On average, prison costs \$45,000 per year per person; the number may be triple for older prisoners.

Learn More

Nazgol Ghandnoosh et al., "[Felony Murder](#): An On-Ramp to Extreme Sentencing," The Sentencing Project, 2022.

Guyora Binder, [Felony Murder](#), 2012.

Abbie Vansickle, "[Can It Be Murder If You Didn't Kill Anyone?](#)," The Marshall Project, 2018.

Restore Justice, "[Felony Murder in Illinois](#)."

Lila Meadows, "[Abolish Felony Murder in Maryland](#)," *Baltimore Sun*, 2019.