

SENATE BILL 919

E1, E2

0lr2459
CF 0lr2839

By: **Senator Carter**

Introduced and read first time: February 3, 2020

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Law – Felony First–Degree Murder – Limitation and**
3 **Review of Conviction**

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.

20 BY repealing and reenacting, with amendments,
21 Article – Criminal Law
22 Section 2–201
23 Annotated Code of Maryland
24 (2012 Replacement Volume and 2019 Supplement)

25 BY repealing and reenacting, without amendments,
26 Article – Criminal Law
27 Section 2–204
28 Annotated Code of Maryland
29 (2012 Replacement Volume and 2019 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

3 **Article – Criminal Law**

4 2–201.

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

6 (1) a deliberate, premeditated, and willful killing;

7 (2) committed by lying in wait;

8 (3) committed by poison; or

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

11 (i) arson in the first degree;

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

14 1. is not parcel to a dwelling; and

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

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

18 (iv) carjacking or armed carjacking;

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

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

22 (vii) mayhem;

23 (viii) rape;

24 (ix) robbery under § 3–402 or § 3–403 of this article;

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

26 (xi) sodomy; or

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

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

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

6 (ii) imprisonment for life.

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

10 (c) A person who solicits another or conspires with another to commit murder in
11 the first degree is guilty of murder in the first degree if the death of another occurs as a
12 result of the solicitation or conspiracy.

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

18 **(2) (I) ON APPLICATION FOR REVIEW OF CONVICTION UNDER**
19 **PARAGRAPH (1) OF THIS SUBSECTION, THE COURT SHALL HOLD A HEARING TO**
20 **DETERMINE, AFTER CONSIDERATION OF ALL THE EVIDENCE, WHETHER THE**
21 **APPLICANT COULD BE FOUND GUILTY OF MURDER IN THE FIRST DEGREE ON OR**
22 **AFTER OCTOBER 1, 2020.**

23 **(II) IF THE COURT DOES NOT FIND BEYOND A REASONABLE**
24 **DOUBT THAT THE APPLICANT COULD BE FOUND GUILTY OF MURDER IN THE FIRST**
25 **DEGREE ON OR AFTER OCTOBER 1, 2020, THE COURT MAY VACATE THE**
26 **CONVICTION, RESENTENCE, GRANT A NEW TRIAL, OR CORRECT THE SENTENCE, AS**
27 **THE COURT CONSIDERS APPROPRIATE.**

28 **(3) THE COURT MAY NOT INCREASE THE SENTENCE OF AN APPLICANT**
29 **UNDER THIS SUBSECTION.**

30 **(4) THE COURT SHALL NOTIFY THE STATE'S ATTORNEY OF AN**
31 **APPLICATION FOR REVIEW OF CONVICTION.**

32 **(5) A PERSON MAY NOT FILE MORE THAN ONE APPLICATION FOR**
33 **REVIEW OF CONVICTION UNDER PARAGRAPH (1) OF THIS SUBSECTION.**

1 2–204.

2 (a) A murder that is not in the first degree under § 2–201 of this subtitle is in the
3 second degree.

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

6 SECTION 2. AND BE IT FURTHER ENACTED, That:

7 (a) There is a Task Force to Study Felony Murder for Principals in the First
8 Degree.

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

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

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

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

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

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

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

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

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

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

27 (10) an expert in the subject matter of criminal sentencing, selected by the
28 president of the Maryland State's Attorneys' Association and appointed by the presiding
29 officers;

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

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

3 (13) the chair of the Conference of Circuit Judges, or the chair's designee, as
4 a nonvoting member.

5 (c) The members of the Task Force shall designate the chair of the Task Force.

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

7 (e) A member of the Task Force:

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

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

11 (f) The Task Force shall:

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

14 (2) study the provisions, penalties, and jurisprudence in other states for
15 felony murder; and

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

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

21 (ii) felony murder for principals in the first degree should be
22 legislatively abolished; and

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

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

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

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