



Written Statement of Molly Gill
Vice President of Policy, FAMM
Re: Maryland Senate Bill 850, Youth Accountability and Safety Act
March 14, 2023

Dear Chair Smith, Vice Chair Waldstreicher, and members and staff of the [Maryland Senate Judicial Proceedings Committee](#):

Thank you for considering our statement. [FAMM](#) is a nonpartisan, nonprofit organization that advocates sentencing policies that are individualized and fair, protect public safety, and preserve families.¹ Our members in Maryland include people from all walks of life, including those with incarcerated loved ones or themselves returning home from prison. Many of our families have suffered from both incarceration and crime; experiences that are not mutually exclusive.

Senate Bill 850, the Youth Accountability and Safety Act, would remedy a real injustice in Maryland: The application of the felony murder doctrine to youth. “Felony murder” is a legal concept by which people can be convicted of homicide even if they neither killed anyone nor intended to kill anyone.² It applies to people who participated in certain types of felonies and a death occurred.

Felony murder is an unjustly broad law, particularly when it carries harsh sentences as it does in Maryland. Currently, a person who commits felony murder is subject to life imprisonment with or without the possibility of parole.³ This incredibly harsh mandatory sentence – the harshest available in the United States absent the death penalty – deprives judges of the opportunity to accurately tailor sentences to the unique facts of a case. Please understand that *every family, every victim, and every case is unique*. Several states, including Hawaii, Kentucky, and Maryland have done away with their felony rules completely. Many others have updated their laws, including Colorado, California, Illinois, and Massachusetts. We urge Maryland to join their ranks.

Maryland’s felony murder law overwhelmingly impacts people who were young at the time of the crime, which means that their brains were still developing and their level of culpability was diminished.⁴ By virtue of their youth, these individuals will generally spend more time in prison

¹ See <https://famm.org/>.

² Maryland General Assembly Senate Bill 850, <https://mgaleg.maryland.gov/mgawebsite/Legislation/Details/sb0850>. See also House of Representatives companion House Bill 1180.

³ Md. Code Ann. §2-201, <https://mgaleg.maryland.gov/mgawebsite/Laws/StatuteText?article=gcr§ion=2-201&enactments=false>.

⁴ The U.S. Supreme Court has found that individuals under 18 have reduced culpability because their brains are still developing. *Miller v. Alabama*, 132 S. Ct. 2455 (2012); *Graham v. Florida*, 560 U.S. 48 (2010); *Roper v. Simmons*, 543 U.S. 551, 569 (2005). This brain development continues through one’s mid-twenties. Arain, M., et al. (2013).



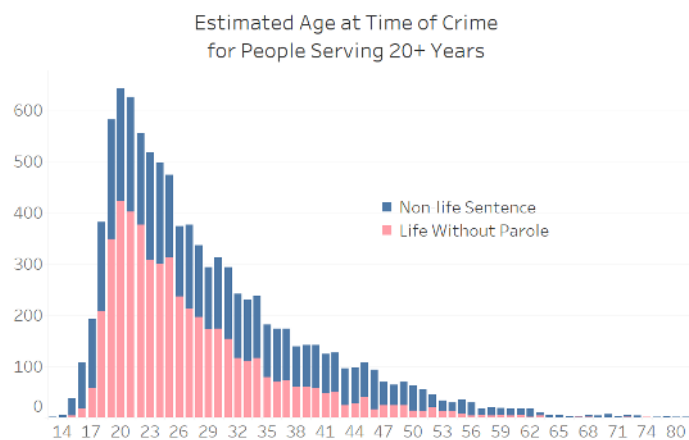
than people who were older. FAMM often encounters people who have spent more time in prison than the amount of time *that they were alive* prior to their crime.

Broad statutory crimes and extreme sentences as applied to youth are not necessary for preventing recidivism, because the vast majority of people who commit crimes – even very serious crimes – naturally grow out of criminal behavior as they age and mature. Young people’s brains continue to develop through their mid-20s, particularly the prefrontal cortex, which is responsible for the ability “to exercise good judgment when presented with difficult life situations.”⁵ Young people are therefore more impulsive and susceptible to peer influence than older adults and less able to inhibit inappropriate behavior, manage intense emotions, and fully consider consequences of their behavior.⁶ Consequently, criminal activity peaks during the late teen years and early 20s. In fact, breaking the law is normal behavior during this period: In self-reporting surveys, *most* adolescents report having done so.⁷

Fortunately, people grow and change. As people age, they become less and less likely to engage in crime.⁸ Arrests drop steeply by the early 30s. Almost three-quarters of arrests are of people below age 40; fewer than 4% are of people age 60 or over.⁹

Additionally, the Racial Equity Impact Note also shows that Senate Bill 850 may meaningfully and positively impact racial demographics in Maryland’s criminal justice system.¹⁰ “Black or African

American individuals were 79% of arrests for murder in 2020 despite comprising just 31% of the under age 25 population in the State. In contrast, white individuals were 19% of those arrested for murder, significantly lower than their 42% proportion of the under age 25 State population.”¹¹ This a significant and serious racial disparity in Maryland’s criminal justice system. Black people under age 25 in Maryland would be most impacted by the bill’s provisions, and the Racial Equity Impact Note weighs strongly in favor of supporting this legislation.



Maturation of the adolescent brain. *Neuropsychiatric Disease and Treatment*, 9, 449–461. <https://doi.org/10.2147/NDT.S39776>.

⁵ Arain, M., et al. (2013). Maturation of the adolescent brain. *Neuropsychiatric Disease and Treatment*, 9, 449–461. <https://doi.org/10.2147/NDT.S39776>.

⁶ Id.

⁷ Bonnie, R.J., et al. (Eds.). (2013). *Reforming Juvenile Justice: A Developmental Approach*. National Academy of Science, 100. <https://www.nap.edu/read/14685/chapter/6#100>.

⁸ Snyder, H.N. (2012). *Arrest in the United States, 1990-2010*. U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Statistics. <https://bjs.ojp.gov/content/pub/pdf/aus9010.pdf>.

⁹ Federal Bureau of Investigation, Criminal Justice Information Services Division. (2020). *2019 Crime in the United States*, Table 38. <https://ucr.fbi.gov/crime-in-the-u.s/2019/crime-in-the-u.s.-2019/topic-pages/tables/table-38>.

¹⁰ Department of Legislative Services Racial Equity Impact Note for Senate Bill 850, <https://mgaleg.maryland.gov/Pubs/BudgetFiscal/2023RS-SB0850-REIN.pdf>.

¹¹ Id.

The current felony murder rule makes Maryland less safe because it is overly broad, and it keeps people in prison long after they stop posing a danger to the community. This comes at enormous cost to families and taxpayers. Most people naturally outgrow crime as they mature,¹² and also become much more expensive to incarcerate as they age in prison.¹³ Felony murder reform savings can be used for public safety measures that work, including helping today's crime victims.

We anticipate significant tax savings from this legislation, and question the current Fiscal and Policy Note which indicates none.¹⁴ Thirty percent of the Maryland Department of Public Safety and Correctional Services population is incarcerated for murder. Of this 30%, no one currently knows how many are convicted of which degree of murder. No one currently knows how many were under 25 when the murder occurred.¹⁵ Therefore, it seems more appropriate to say that a proper fiscal analysis cannot be completed absent this critical data. We believe that with better data, cost savings to Maryland taxpayers would be apparent.

Ultimately, we hope that you will eliminate mandatory sentences for everyone convicted of felony murder in Maryland, and make any changes retroactive. For now, please support Senate Bill 850 and reform Maryland's felony murder law. FAMM stands ready and willing to work with you on this and other criminal justice reform initiatives. We encourage you and your staff to visit with people serving extreme sentences in Maryland prisons and we are happy to facilitate this as part of our #VisitAPrison campaign.¹⁶

Should you have additional questions, I can be reached at mgill@famm.org. Thank you for the opportunity to submit written testimony, and for considering our views.

¹² Prescott, J.J., Pyle, B., and Starr, S.B. (2020). *Understanding Violent-Crime Recidivism*, Notre Dame Law Review, 95:4, 1643-1698, 1688. <https://secondchanceslibrary.org/wp-content/uploads/2022/06/9.-Prescott-et-al..pdf>.

¹³ McKillop, M. & Boucher, A. (2018). *Aging Prison Populations Drive Up Costs*, The Pew Charitable Trusts. <https://secondchanceslibrary.org/wp-content/uploads/2022/06/Aging-Prison-Populations-Drive-Up-Costs--The-Pew-Charitable-Trusts.pdf>.

¹⁴ Department of Legislative Services Fiscal and Policy Note for Senate Bill 850, https://mgaleg.maryland.gov/2023RS/fnotes/bil_0000/sb0850.pdf.

¹⁵ Department of Legislative Services Racial Equity Impact Statement for Senate Bill 850, <https://mgaleg.maryland.gov/Pubs/BudgetFiscal/2023RS-SB0850-REIN.pdf> (see page 3).

¹⁶ See www.visitaprisson.org.