

#FMLR

Felony Murder Law Reform Minnesota



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To Whom It May Concern:

We are a group of Minnesota Families who have loved ones affected by the injustice of the Felony Murder Law as currently written in Minnesota. We are starting the grassroots movement to reform and/or abolish this law. We are currently working with the legal team from California who successfully passed SB1437 and reformed their Felony Murder Law along with many Minnesota criminal justice reform activists, the MACDL and politicians.

Our goal is to provide a more just and fair system for all. We have found through our conversations and our own personal journeys that there is a high level of false equivalencies and prosecutorial overreach being used to mass incarcerate people of crimes they did not commit nor intend to commit.

We are looking for your support in our mission to bring awareness to this issue and change this unjust law. We would be more than happy to meet with you and discuss our story, the stories of others we have been made aware of and our ultimate goal for a more fair and just Minnesota. We look forward to hearing from you.

Sincerely,

The #FMLR Team - Minnesota

Toni & Paul Cater (co-founders) / Linda & James Martinson (co-founders)

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Families coming together to end Felony Murder Law In Minnesota & Nationally!

#FMLR-Minnesota Introduction:

Our daughters (Megan age 19, Briana age 20) were indicted for 1st Degree Murder. The crazy thing is: **1.** They didn't kill anyone, and **2.** They didn't intend to kill anyone. How then could they be charged with 1st degree murder? It is called the **Felony Murder Law**. If convicted under this law the sentence is life in prison without the possibility of parole. There are many young men and women currently serving life sentences under this law.

What is the Felony Murder Law? This law allows for an individual to be charged with first-degree murder for a killing that occurs during the commission of a felony crime even if the individual is **not** the killer nor had any intent or forewarning of this crime.

Felony murder law is the only crime where an individual can be charged and convicted of a crime without the prosecutors having to prove any intent (mens rea). Keep in mind this is the most serious crime (1st degree murder) that a person can be charged and convicted with. Even the smallest of crimes committed by an individual, the prosecutor must prove intent.

Here are some egregious examples of people serving time under this barbaric/archaic Felony Murder Law:

CASE: Ryan Holle - Felony Murder **Incarcerated Age: 20 Years Old** Borrowed car and was not present when Murder Happened. Received LWOP [Click here for more info on Ryan Holle](#)

CASE: Felony Murder - August 2019...6 teens attempt to steal a car, the 75 year old owner comes out and shoots and kills the 14 year old, the other 5 are facing first degree murder charges which will mean life in prison..public involvement caused DA to withdraw charges! A perfect example of a prosecutor/DA deciding the fate of many. [Click here Restore Justice III info on case](#)

CASE: *Krystal Shelton, Felony Murder, Age 18, First 48 hours show, March 5, 2009, Sentenced to 13 years and was NOT in the building! (Krystal is an amazing young woman and will meet to talk with you if you are interested) [First 38 Episode. Watch police focus on getting the girls who were not even present!](#)*

According to The Marshall Project article "Can It Be Murder If You Didn't Kill Anyone?" "England abolished its version of FML in 1957, followed by India, Canada, and all other common law countries, and the United States remains the only country where the felony murder doctrine still exists".

The following states no longer have felony murder statutes: Abolished-Ohio, Michigan, Hawaii, Kentucky. Reformed- Massachusetts, Arkansas, New Hampshire and New Mexico along with the most recent being California passed Senate Bill 1437 which was signed into law August 30, 2018. This bill amended California's felony murder rule and other common law doctrines related to accomplice liability for homicides. Illinois and Pennsylvania currently have bills in progress too. As you can see there is a real movement to get rid of the Felony Murder Law and we would really like to see Minnesota join in on this.

California's team did extensive research and found that 72% of the women convicted of homicide

doing LWOP had never killed anyone. They discovered the average age of a person convicted of Felony Murder was 20 years old! And the majority of people convicted under this law are young women and men of color.

We shovel money by the truckload - \$41,000/person/year if young and healthy, \$100,000/person/year if older – to ensure a slow and excruciating existence until death. Thousands serving this LWOP penalty were family and community members who had never been in trouble with the law. This question demands an answer: “In what ways would this inconceivable amount of money be more wisely spent?” Better education? Housing and investment in our most impoverished communities? Medical and mental health care for our most vulnerable citizens?

Our daughters are labeled on all prison documents as violent offenders, not eligible for early release programs based on good behavior nor eligible for participating in programming. Our “violent” daughters, after their arrival to the Shakopee’s Women’s Prison are working on the following positives:

1. Enrolled in College at Adam’s State University within the first 6 months and are continuing their education in order to obtain college level degrees.
2. Applied and were accepted into the Prison Fellowship Academy (PFA). This is a 13 month program that takes women through a life transformation, that is Christian based. After successful graduation from this program, they became peer mentors to other women in the program.
3. Volunteered to be a part of many different groups from the Christmas play choreographing, the Restorative Justice Committee, trauma through art, Feed My Starving Children, and will continue as programs are offered.
4. Act as role models to mentor and encourage other women struggling in the system while working with the staff to create a positive environment.
5. Tutoring other inmates to obtain their GED.

Both of our daughters ended up taking a plea deal for 13 ½ years instead of taking the chance of going to trial to fight against life without parole (LWOP). Sadly, our daughters are some of the lucky ones that did not try and go trial and end up serving a life sentence with no possibility of parole. We have started to gather more stories from the women and men within Minnesota who are serving lengthy sentences and LWOP sentences for being a part of a crime but not the murderer. We believe this is not justice and are looking for a more fair and just approach to the Minnesota Laws and sentencing.

Please go to this link for more information:

<https://www.nytimes.com/2019/07/22/opinion/felony-murder-rule-adnan-khan.html>

Shaun King podcast: [Click here to listen to podcast](#)

Megan and Briana's Grad pics before prison



Prison Fellowship Graduation (Bri and Meg in front row)



Prison Pictures with family and friends



Supporters and Backers of #FMLR Minnesota

Minnesotan's For Equitable Sentencing!

MACDL (Minnesota Association of Criminal Defense Lawyers)

ACLU MN

We Rise Leadership Foundation

Justice Action Network

We Are All Criminals

PMA

Minnesota Second Chance Coalition

TakeAction Minnesota & Justice 4 All

McLemore Holdings

Thrive! Family Addiction Support

Breakthrough Ministries

Re:Store Justice California

Restore Justice Illinois

The Justice Collaborative California



Minnesota Statistics from 2001-2018

Under 609.19 2(1) ONLY! **

Total Convictions -**702 people**

Male: 629 Female: 73

Minimum age 14! Maximum 70.....Average age 27 with Majority In early 20's (see graph)

Average sentence 183.2

Total sentences in months **77,684** (x \$43,000 per year to incarcerate =**\$368,412,000** in tax payer dollars!)

Conviction cases by year

2018 -32 (51 people)

2017-26 (48 people)

2016-19 (29 people)

2015-11 (27 people)

2014-24 (38 people)

2013-19 (27 people)

2012-19 (36 people)

2011-15 (20 people)

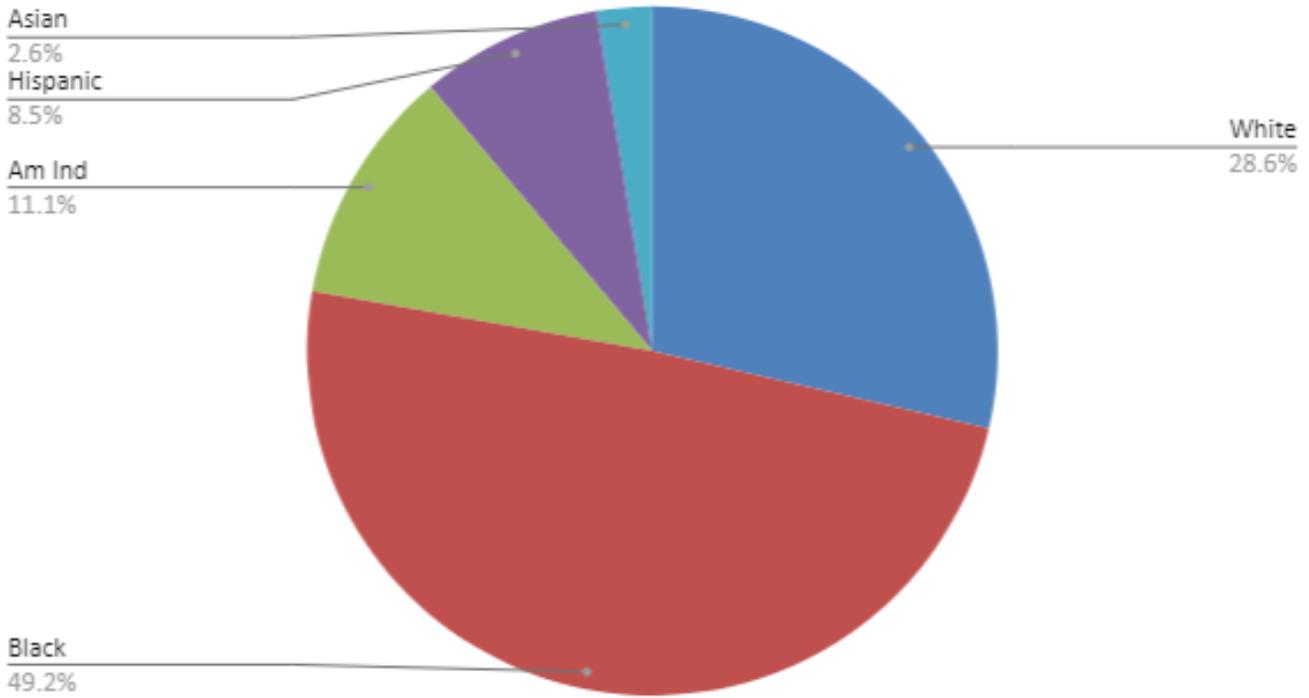
2010-17 (26 people)

2009-17 (24 people)

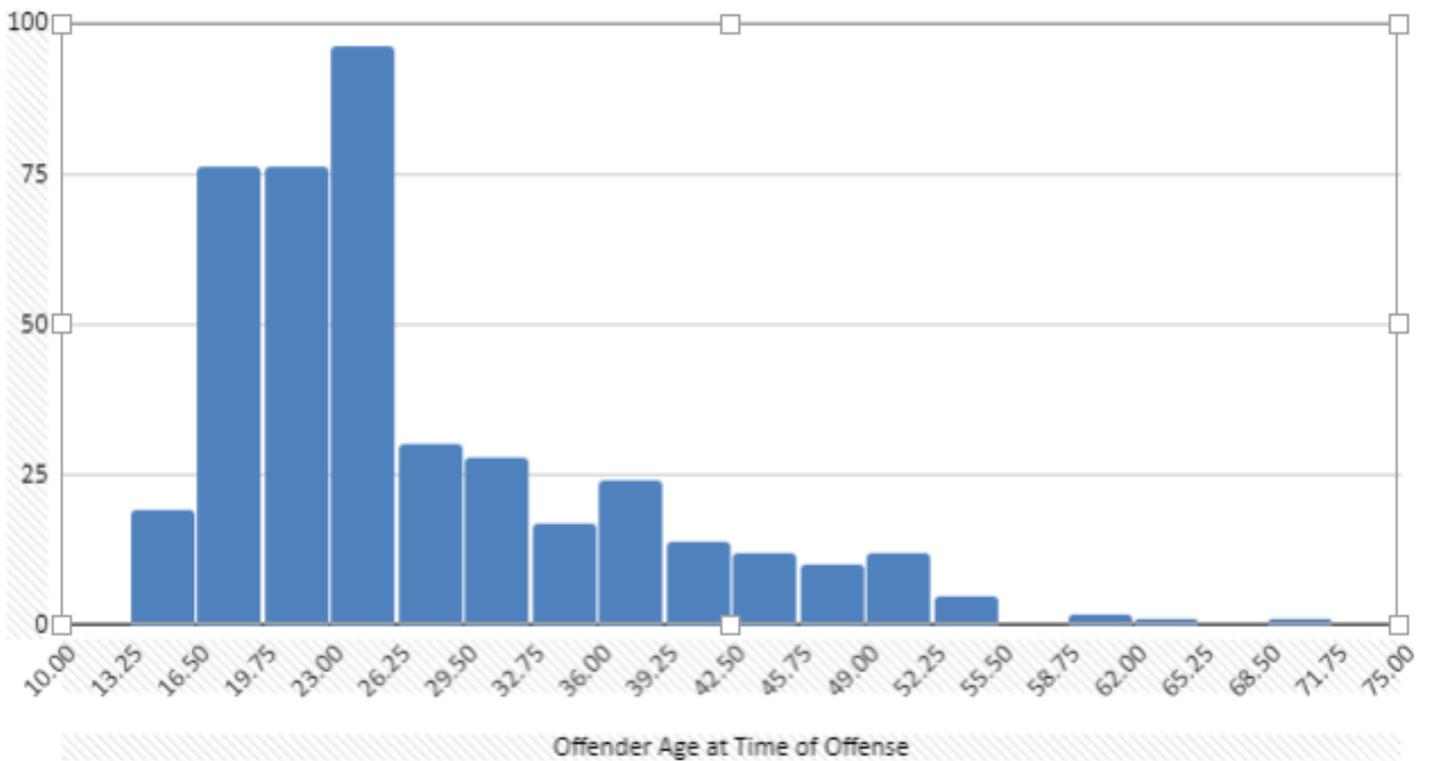
2008-23 (31 people)

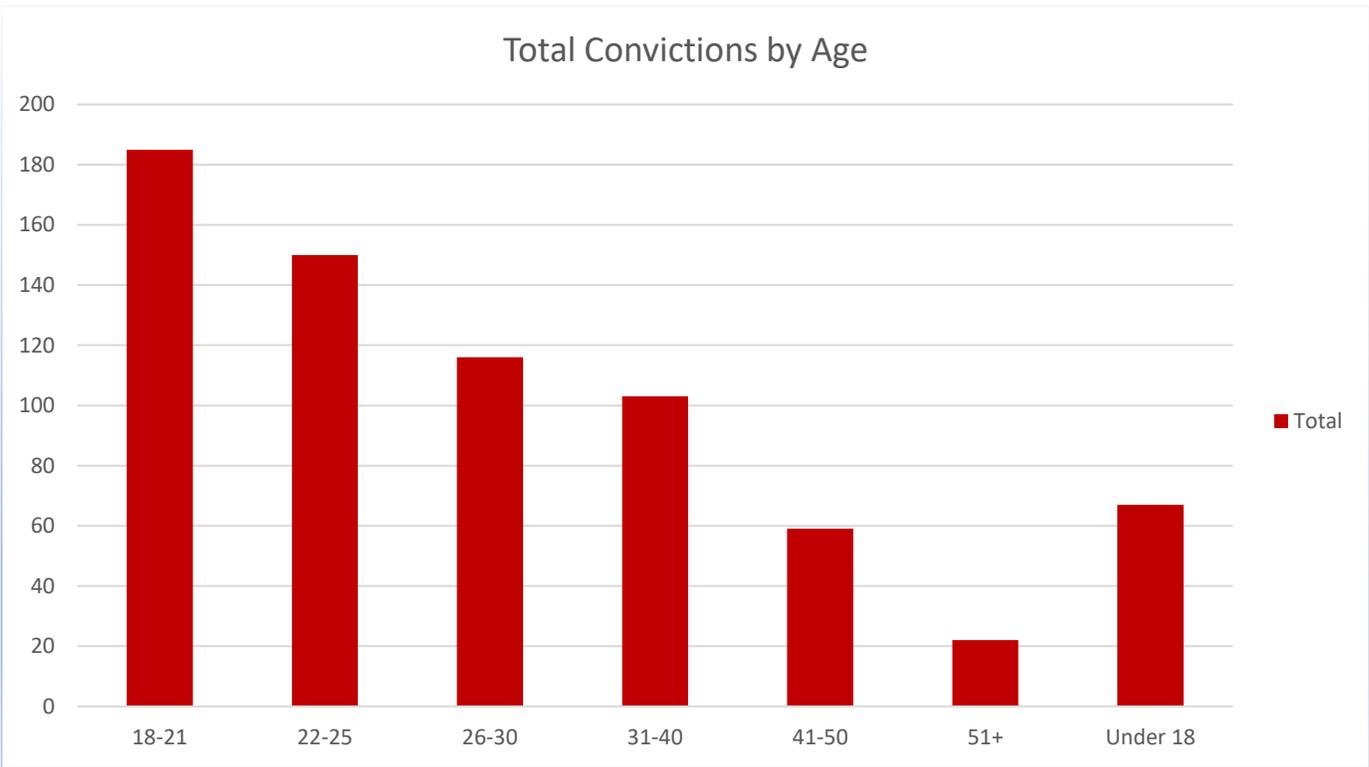
**Statistics provided by the Minnesota Sentencing Guidelines Committee 2019

Count of Race

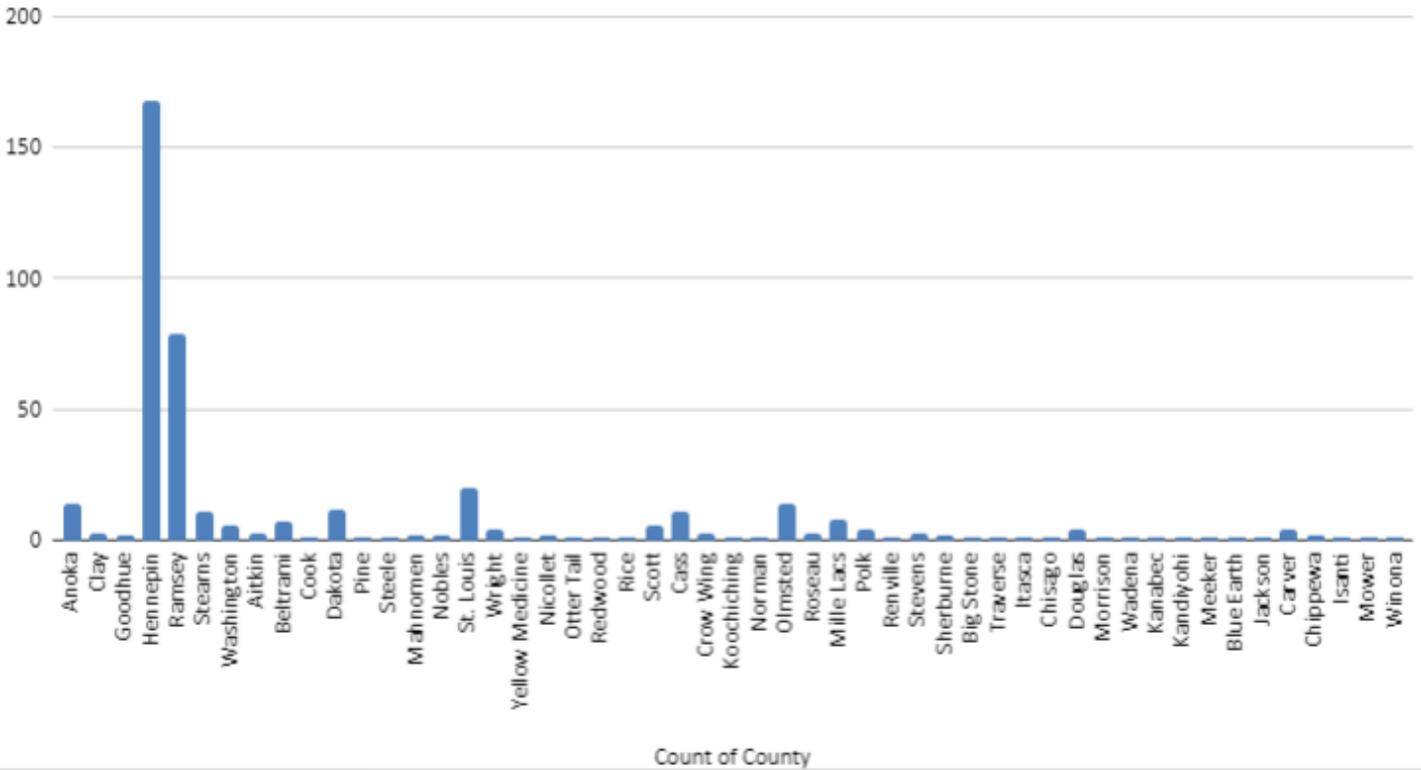


Histogram of Offender Age at Time of Offense

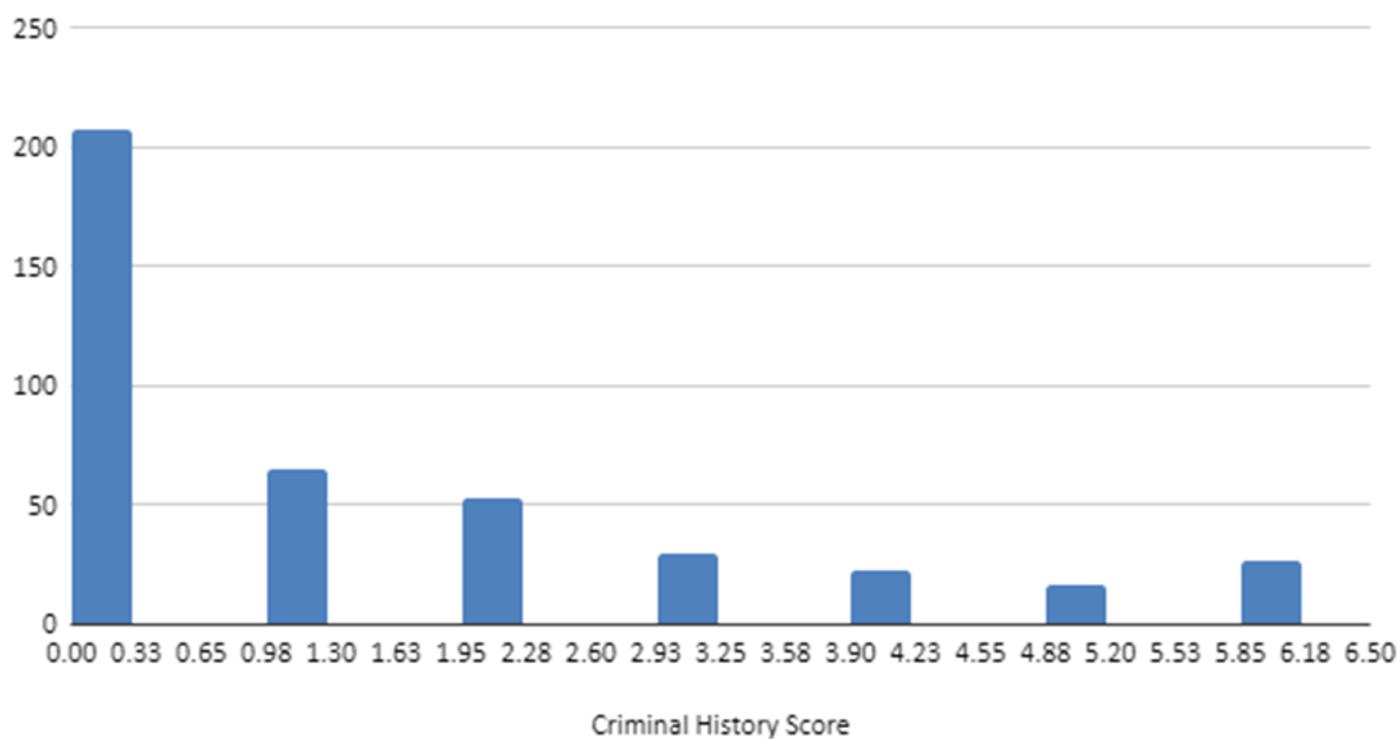




Count of County



Histogram of Criminal History Score



Senate Bill 1437: BESTT Practices Act Better and Equitable Sentencing Through Thoughtful Practices

What is the felony murder rule?

- Our penal code contains an antiquated legal doctrine, known as the felony murder rule, in which individuals are automatically liable for first degree murder if a death -- even if accidental, unforeseen, or otherwise unintended -- occurs during the commission of certain crimes.
- This 25 years to life sentence is imposed even if a person did not kill, nor aid the killing, nor act with any intent to hurt anyone.

What is an example of the rule?

- Chris, 18, plans to steal from a marijuana dealer and asks his girlfriend, Lindsay, 16, to drive the car and wait outside. While Chris is inside, the marijuana dealer comes home unexpectedly, and Chris, startled, turns around and accidentally shoots the dealer. He then runs out of the house, jumps in the car, and tells Lindsay to drive away without telling her about the shooting. Under the felony-murder rule, Lindsay will be charged with first degree murder, usually reserved for planned murders, although she had no knowledge that a shooting could or would occur. In another scenario, Lindsay drives the car, but Chris doesn't take the shot, and Lindsay gets charged with a first-degree burglary, which is a strike offense, and spends some years in state prison, rather than a life sentence.
- In both scenarios, Lindsay made the exact same decisions, had the exact same knowledge, and took the exact same risk. Women and young people are especially liable to be the accomplice, rather than the perpetrator of the homicide, and to thus receive a life sentence regardless of their knowledge of, or involvement in, the killing.

What is the result for all participants?

- The result is that all participants in certain crimes receive a 25 years to life sentence in prison when a death occurs, even if the death is accidental, unintentional, or unforeseen, and even if a person had no actual involvement in the death.
- Under this rule, an accomplice does not need to intend to hurt anyone, let alone cause a death. However, that person receives a first degree murder conviction, based on the actions of another.

- The application of this rule has caused disproportionately long sentences for people who did not commit murder, and who in some cases had, at best, a very peripheral involvement in the crime that resulted in a death.
- According to a 2018 survey by the Anti-Recidivism Coalition and Restore Justice, **72% of women** currently incarcerated in California with a life sentence under the felony murder rule did not commit the homicide.
- Additionally, the average age of a person charged and sentenced as an accomplice -- not the actual killer -- in a case in which the felony murder rule is used is 20 years old. Thus, youth who were peripheral to a homicide are often held as responsible as the actual killer.

Is the felony murder rule used in other jurisdictions?

- **This rule has been abolished in all other common law countries** (common law countries are those whose laws originally came from England), including Ireland, Scotland, England, India, and Canada.
- **Other states around the country have effectively ended their felony murder rule.** Ohio, Hawaii, Kentucky, Michigan, and Massachusetts have ended the application of the felony murder rule.
- **Other states have limited its broad application.** Other states including Arkansas, New York, New Jersey, Connecticut, Delaware, Maine, North Dakota, Oregon, and Washington have limited its broad application to the actual perpetrators of the homicide. These states are a mix of Republican and Democratic-leaning jurisdictions.
- In 1983, the California Supreme Court called for the felony murder rule to be abolished by the Legislature, calling it a “barbaric” rule.

What would SB 1437 do?

- This bill would clarify that a person may only be convicted of murder if the individual personally killed, acted with an intent to kill, or acted with reckless disregard for human life during the felony.
- Under this bill, prosecutors would no longer be able to substitute the intent to commit a crime for the intent to commit murder.
- SB 1437 would also provide a means for resentencing those people who did not actually commit the homicide, or act with the intent to kill, but who nevertheless were convicted of murder and sentenced to life imprisonment.

Why is SB 1437 needed?

- **In cases of specific felonies when a death occurs, California treats those who did not commit the homicide nor intend to commit the homicide the same as those individuals who did commit and intended to commit the homicide.** Being convicted and sentenced under the felony murder rule or the natural and probable consequences doctrine means that many Californians have been sentenced for a homicide they neither committed, nor planned, nor aided.
- **SB 1437 does not abolish the felony murder rule, those who actually committed a homicide or acted with intent to commit a homicide can still be convicted for 1st or 2nd degree murder.** SB 1437 does not change the fact that those who commit a homicide or acted with intent to commit a homicide are held accountable for their clear actions or mental states.
- **There is no deterrent effect to this rule.** There is not only no evidence to support that the felony murder rule actually decreases felony rates, a peer-reviewed statistical analysis of FBI crime statistics concluded that the felony murder rule did not reduce crime rates in jurisdictions that had it. Further, research indicates that fewer than .5% of individuals incarcerated for first or second degree murder were even aware that the rule existed before they committed their crimes. If one is not aware of a rule and its extreme consequences, one cannot be deterred from violating such a rule.
- **The average age of a person convicted under the felony murder rule is 20 years old.** Psychological research, cited by the U.S. Supreme Court, clearly demonstrates that people continue to cognitively develop into their mid-20s. Before reaching their mid 20s, young people have not fully developed the decision-making skills to remove themselves from dangerous situations, particularly when older peers are involved.
- **The felony murder rule undermines notions of fairness that are critical to the American criminal justice system.** One of the fundamental elements of a just criminal justice system is that individuals are held responsible for the crimes they committed or intended to commit. The felony murder rule undermines this pillar of the U.S. justice system by severely penalizing people for crimes one did not commit nor intend to commit.

Why should SB 1437 be retroactive?

- **SB 1437 would help save money.** Many Californians are incarcerated in state prisons for 25 years to life because of the felony murder rule, even though they did not actually commit the homicide or intend to do so. If resentenced, these incarcerated Californians will be held responsible for the felonies they committed,

but would no longer be incarcerated serving life sentences for a homicide they did not commit.

- SB 1437 amends a law that is applied in an unjust manner. Justice requires that those who are currently imprisoned under this unjust law receive the benefit of the change.

How many people could be re-sentenced?

- Based on numbers from the CDCR and research cited by the Senate and Assembly Public Safety Committees Analyses, up to approximately 800 people statewide could be eligible for resentencing. This is much less than the number of people who were eligible for relief when the Three Strikes law was amended.

Summary

- SB 1437 does not abolish felony murder, it merely limits its application to those who actually killed, or who acted with an intent to kill.
- Thus, SB 1437 is a rule of proportional responsibility. Those who actually kill -- even accidentally -- during the course of a felony are still liable for first degree murder. Those who aid the killing with the intent to commit a murder are still liable for first degree murder. Those who participated in the felony, but did not kill or intend to kill are still liable for their role in the felony and may be imprisoned for that offense, all of which are strikes.