



AB 2195: Felony Murder Rule - Increasing the Transparency of Convictions and Sentencing

Summary:

AB 2195 requires the California Department of Justice (DOJ), in consultation with the California Department of Corrections and Rehabilitation (CDCR) to collect data on the number of persons currently convicted of and sentenced for first degree and second degree murder under the felony murder rule. This bill also requires DOJ to disaggregate the data by county and continue to update the data annually, posting it to the department's website in a prominent place.

Background:

The felony murder rule states that any death which results from the commission or attempted commission of certain crimes such as burglary, arson, rape, robbery, and kidnapping, is considered murder of the first degree. First degree murder is any intentional murder with malice aforethought that is premeditated or planned in advance. All other murders, which are not premeditated and do not qualify under any other special circumstances as first degree murder, are considered second degree murder. The punishment for those found guilty of first degree murder, is death or imprisonment for life without the possibility of parole (LWOP). The punishment for second degree murder is 15 years to life.

To be convicted of first degree murder, as previously mentioned, there must be proof beyond a reasonable doubt that the murder was premeditated and committed with malice aforethought. Conversely, conviction under the felony murder rule only requires proof of the intent to commit the

underlying felony. All participants in that crime can, and most likely will, be held equally culpable. This means that even individuals who possessed no weapon, did no harm, and did not intend to hurt anyone, can still be sentenced to death or LWOP.

Whereas the felony murder rule exists to deter people from killing others during the commission of a felony and to deter people from committing the felony in the first place, it is unclear how effective it is as a deterrent and can be argued that it is unjust to hold one person liable for the unforeseen consequences of another person's actions.

Need for legislation:

According to *The Sentencing Project*, the United States is the world's leader in incarceration with 2.2 million people in our nation's prisons and jails. We have an incarceration rate which far exceeds all other developed and underdeveloped countries. While crime rates have remained relatively steady, "tough on crime" policies and draconian sentencing laws have created a shocking 500% increase in our prison and jail populations over the last forty years.

In the midst of our nation's severe prison overcrowding problem and the federal mandate for California to reduce its prison population, in 2011 the Legislature and Governor approved historic public safety realignment legislation, which required certain non-serious, non-violent and non-sex-related offenders to serve their sentence in county jail or under local supervision. While realignment reduced the burden on state prisons, in 2014 California voters strengthened efforts by approving Proposition 47. This initiative, among

other things, reclassified and allowed for the resentencing of certain non-serious, non-violent crimes from felonies to misdemeanors.

This year, Governor Brown has announced his plans to support a ballot initiative with faith-based organizations, law enforcement and justice rights organizations, which proposes to create parole consideration for non-violent adults who have served the full sentence of their primary offense, allows inmates to receive credit for good behavior and programming accomplishments, and requires judges rather than prosecutors to determine whether juveniles are tried as adults.

Although California has made significant strides to shift the focus of public safety from incarceration to rehabilitation, there is much more that must be done. In order to continue to build on this momentum, it is imperative that at the very least, the state tracks and collects data on the impacts of outdated and overly punitive sentencing laws. Currently, our state tracks murder and felony convictions, but does not collect data on felony murder convictions.

California leads the nation with over 40,000 prisoners serving life sentences. It is alarming that it is unknown how many of the total were convicted under the felony murder rule, especially given that states such as Hawaii, Kentucky, Michigan and Ohio have abolished the law. If our state seeks to reduce our reliance on incarceration, provide more opportunities for rehabilitation, and create a more fair criminal justice system that improves public safety, it is essential we have statistics on the number of people convicted under the felony murder rule - a law that can impose the harshest and ultimate sentence, death or LWOP, for those who, although a participant in the underlying crime, did not themselves commit murder.

Ultimately, having this valuable information is the first step for California to begin the process of evaluating what impact the felony murder rule has had on our criminal justice system and constituents across our state.

This bill:

Specifically, this bill:

- Requires the Department of Justice, in consultation with the Department of Corrections and Rehabilitation, to collect data on the number of persons currently convicted of and sentenced for first and second degree felony murder on or before January, 2018.
- Requires the Department of Justice to disaggregate the data by county.
- Requires the Department of Justice to update this data annually.
- Requires the Department of Justice to post the data in a prominent place on the department's Internet Web site.

Support:

- Felony Murder Elimination Project (Sponsor)

Contact:

Ryan Morimune
Office of Assemblywoman Susan A. Bonilla
916-319-2014
ryan.morimune@asm.ca.gov