

HOUSE BILL 1338

E1, E2

0lr1962

By: **Delegates Crutchfield, Barron, and Moon**

Introduced and read first time: February 7, 2020

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Law – Felony Murder – Limitation and Review of Convictions for**
3 **Children**

4 FOR the purpose of altering provisions of law relating to murder in the first degree;
5 providing that a person who was a child at the time of the offense may not be found
6 to have committed murder in the first degree under certain provisions of law;
7 authorizing certain persons to file a motion for review of conviction under certain
8 circumstances; requiring a court to hold a certain hearing on the filing of a motion
9 for review of conviction; authorizing the court to take certain actions under certain
10 circumstances; prohibiting a court from increasing the sentences of a certain person
11 under certain circumstances; requiring the court to notify the State's Attorney of the
12 filing of a certain motion for review of conviction; and generally relating to children
13 and felony first-degree murder.

14 BY repealing and reenacting, with amendments,
15 Article – Criminal Law
16 Section 2–201
17 Annotated Code of Maryland
18 (2012 Replacement Volume and 2019 Supplement)

19 BY repealing and reenacting, without amendments,
20 Article – Criminal Law
21 Section 2–204
22 Annotated Code of Maryland
23 (2012 Replacement Volume and 2019 Supplement)

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

26 **Article – Criminal Law**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



2–201.

(a) **IN THIS SECTION, “CHILD” HAS THE MEANING STATED IN § 3–8A–01 OF THE COURTS ARTICLE.**

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

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

(2) committed by lying in wait;

(3) committed by poison; or

(4) **SUBJECT TO SUBSECTION (C) OF THIS SECTION**, committed in the perpetration of or an attempt to perpetrate:

(i) arson in the first degree;

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

1. is not parcel to a dwelling; and

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

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

(iv) carjacking or armed carjacking;

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

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

(vii) mayhem;

(viii) rape;

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

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

(xi) sodomy; or

(xii) a violation of § 4–503 of this article concerning destructive devices.

(C) A PERSON WHO WAS A CHILD AT THE TIME OF THE OFFENSE MAY NOT BE FOUND TO HAVE COMMITTED MURDER IN THE FIRST DEGREE UNDER SUBSECTION (B)(4) OF THIS SECTION.

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

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

(ii) imprisonment for life.

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

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

(F) (1) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, A PERSON CONVICTED ON OR BEFORE SEPTEMBER 30, 2020, OF MURDER IN THE FIRST DEGREE UNDER SUBSECTION (B)(4) OF THIS SECTION WHO WAS A CHILD AT THE TIME OF THE OFFENSE MAY FILE A MOTION FOR REVIEW OF CONVICTION AT ANY TIME WHILE INCARCERATED OR UNDER SUPERVISION.

(2) (I) ON THE FILING OF A MOTION FOR REVIEW OF CONVICTION UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE COURT SHALL HOLD A HEARING TO DETERMINE, AFTER CONSIDERATION OF ALL THE EVIDENCE, WHETHER THE MOVING PARTY COULD BE FOUND GUILTY OF MURDER IN THE FIRST DEGREE ON OR AFTER OCTOBER 1, 2020.

(II) IF THE COURT DOES NOT FIND THAT THERE IS A SUBSTANTIAL OR SIGNIFICANT POSSIBILITY THAT THE MOVING PARTY COULD BE FOUND GUILTY OF MURDER IN THE FIRST DEGREE ON OR AFTER OCTOBER 1, 2020, THE COURT MAY VACATE THE CONVICTION AND GRANT A NEW TRIAL, OR RESENTENCE AS TO ANY MERGED CONVICTION, AS THE COURT CONSIDERS APPROPRIATE.

(3) IF THE COURT RESENTENCES A MOVING PARTY UNDER THIS SUBSECTION, THE COURT MAY NOT INCREASE THE SENTENCE OF A MOVING PARTY.

(4) THE COURT SHALL NOTIFY THE STATE’S ATTORNEY OF THE FILING OF A MOTION FOR REVIEW OF CONVICTION UNDER 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 this Act shall take effect
7 October 1, 2020.