

Testimony to the Illinois Senate Executive Committee

January 9, 2021, 1 p.m.
In Support of HB163, SA2



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Dear Chairperson Hunter, Minority Spokesperson Righter, and Members of the Illinois Senate Executive Committee:

Thank you for the opportunity to submit testimony. Restore Justice Illinois supports HB163, SA2, and in particular, the provisions pertaining to felony-murder reform on pages 312-313.

Restore Justice Illinois works to address issues faced by children and young adults serving life or de-facto life sentences. We formed in 2015, led by a dedicated group of advocates that included the late former Illinois state legislator, Congressman, Federal Judge, and White House Counsel Abner Mikva. Our goal is to develop policy solutions that will roll back ineffective, extreme policies of the past, and replace them with compassionate, smart, and safe policies for the future. **Illinois's felony-murder law, one of the broadest in the country, is one such policy. This law incarcerates children and young adults for murders they didn't commit.** It doesn't make us safer, but it does rob these young people of their futures and their families and communities of their voices.

First, thank you to Senate Criminal Law Committee Chair Elgie Sims, Senate Public Safety Chair Robert Peters, and House Judiciary Criminal Law Chair Justin Slaughter for leading the way to make Illinois a more just state. And thank you to the members of those committees for their diligence in attending hours of hearings over the summer and fall in pursuit of bipartisan consensus.

The criminal law omnibus bill is an important step in advancing racial equity. Racism at every stage of the criminal legal system leads to extreme disparities in the Illinois prison population. In Illinois, extended sentencing ranges, truth-in-sentencing laws, and other draconian policies create a net that catches Black children and never lets them go. There are roughly 1,900 people in Illinois prisons serving life or de facto life sentences (40+ years) for crimes that occurred before they were 26. More than 68 percent of the people serving these extreme sentences are Black. Each of the 12 Illinois counties that currently have more than 20 youth serving life or de-facto life sentences dispensed those sentences disproportionately to Black youth.

No one knows how many of these young people with life or de-facto life sentences were convicted under the felony-murder law. Illinois's criminal legal data systems do not differentiate between who was convicted under felony-murder, accountability, or actually committed the murder. Anecdotally, we believe hundreds of the 1,900 people serving life or de-facto life were convicted under felony-murder or accountability.

Only 18 states and the federal government use a broad felony-murder law similar to Illinois. Currently, in Illinois, a person can be charged and convicted of first-degree murder even if they did not actually kill the victim or intend to commit the murder. A felony-murder conviction carries a minimum sentence of 20 years and a maximum sentence of natural life, the same sentencing range as the person who actually commits the murder.

In one case, Cook County prosecutors charged a 23-year-old man with felony-murder after a police officer crashed into an innocent bystander. The 23-year-old had allegedly participated in a burglary. The victim's close friend implored a judge not to convict the young man of murder. He did so anyway.

HB163, SA2 would prevent cases like this.

Specifically, the bill changes one of the three definitions of first-degree murder from the very broad current language in 720 ILCS 5/9-1 of

3) he or she is attempting or committing a forcible felony other than second degree murder.

to the more nuanced and appropriate definition of

(3) he or she commits or attempts to commit a forcible felony other than second degree murder and in the course of and in furtherance of the crime, he or she personally causes the death of an individual; or

(4) he or she, when acting with one or more participants, commits or attempts to commit a forcible felony other than second degree murder, and in the course of and in furtherance of the offense, another participant in the offense causes the death of an individual, and he or she knew that the other participant would engage in conduct that would result in death or great bodily harm.

(See page 312-313.)

Youthful offenders are disproportionately affected by the felony-murder rule, as they are more susceptible to peer pressure. An abundance of research shows the brain continues forming into a person's mid 20s, and the frontal cortex, which controls for risk, is among the last parts to develop.

In August 2019, in Lake County, prosecutors charged five teenagers with murdering their friend/cousin. The children had apparently sought to steal a car, when the car's owner shot and killed a 14-year-old boy. Authorities initially sought to hold the terrified teenagers responsible by charging them with first-degree murder, to be tried in adult courts. While officials ultimately dropped murder charges after extended and robust public pressure, people throughout the state are frequently convicted under the felony-murder law and sentenced to extreme prison terms.

Research from California shows the felony-murder law also disproportionately affects women. Before California amended its felony murder law in 2018, a survey found 72 percent of the women serving life sentences for felony-murder had not committed the killings. The average age of people convicted under California's felony-murder law was just 20 years old, according to an independent study.

It's long past time to make Illinois's laws fairer and to acknowledge the role racism plays at every stage of the criminal legal system, including in using the felony-murder statute to sentence predominantly people of color to extreme prison terms. Passing this omnibus bill and fixing the felony-murder statute are important steps in advancing justice in our state.

Thank you for allowing us to share our testimony and for your ongoing commitment to the difficult work of improving our criminal laws.

Sincerely,

Jobi Cates
Executive Director
Restore Justice Illinois