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

**Summary:**

AB 2195 requires the district attorney of each county to collect data on the number of individuals charged with and convicted of felony murder. The data must be disaggregated by county, race and gender, and annually reported to the Department of Justice (DOJ) for their statewide homicide report.

**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, can be 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 did not possess a weapon and did no physical harm, can still be sentenced to death or LWOP. This is particularly troubling given that some prisoners who have been found guilty of first degree murder and are currently serving their sentence, have the possibility for parole.

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 on our criminal justice system and constituents across the state.

This bill:

Specifically, this bill:

- Requires the district attorney of each county to collect data on the number of persons charged with and convicted of felony murder, disaggregated by race and gender.
- Requires the district attorney of each county to report the data annually to the Department of Justice, beginning July 1, 2017.
- Requires the Department of Justice, beginning July 1, 2018, to include the most recent data collected in their annual state homicide report, disaggregated by county, race and gender.

Support:

- Felony Murder Elimination Project (Sponsor)
- A New PATH
- A New Way of Life Re-Entry Project
- American Civil Liberties Union
- American Friends Service Committee
- Anti-Recidivism Coalition
- Asian Americans Advancing Justice
- California Attorneys for Criminal Justice
- California Catholic Conference, Inc.
- California Coalition for Women Prisoners
- California Families Against Solitary Confinement
- California Prison Focus
- California Prison Moratorium Project
- California Public Defenders Association
- Californians for Safety and Justice
- Center on Juvenile and Criminal Justice
- Community Works West
- Courage Campaign
- Drug Policy Alliance
- Ella Baker Center for Human Rights
- Fair Chance Project
- Friends Committee on Legislation of California
- Justice Now
- Legal Services for Prisoners with Children
- Life Support Alliance
- Loyola Law School Alarcón Advocacy Center
- Loyola Law School Project for the Innocent
- National Center for Youth Law
- Northern California Innocence Project
- Pacific Juvenile Defender Center
- Prison Activist Resource Center
- Prison Law Office
- Prison Policy Initiative
- Rubicon Programs
- Silicon Valley De-Bug
- The Sentencing Project
- Time For Change Foundation
- W. Haywood Burns Institute

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