

Ending Death By Incarceration for Felony-Murder: Retroactive Application and Sutley



The Legislation

HB2296 is active legislation that would amend Titles 18 (Crimes and Offenses) and 61 (Prisons and Parole) by offering parole opportunities through the PA Parole Board to adults sentenced to DBI for felony murder and reducing the minimum sentence for those charged with felony murder as juveniles.



Is an amendment of the parole code for retroactive sentencing of felony murder legally permissible?



The PA Supreme Court decision in *Sutley* recognized that the legislature has the power to alter parole eligibility for people already convicted and sentenced. Because HB2296 does not alter a maximum sentence imposed by a court exercising judicial discretion, the amendments are permissible.



In 2022, the PA Supreme Court issued a majority opinion on *Scott v. PA Board of Parole* recognizing that *Sutley* does not prevent the legislature from amending the parole code by providing parole for felony murder.



Why not process through the Post Conviction Relief Act and be resentenced in the original court vs. parole board?



The PA Parole Board has testified to the PA House Judiciary Committee that they are experienced, qualified and capable of determining the appropriateness of parole for those with felony murder charges.



PCRA resentencing would exhaust considerable judicial resources, as seen in the resentencing following *Miller v. Alabama*, which allowed for PCRA resentencing for juveniles sentenced to DBI.



Due to their lengthy and extensive nature, PCRA proceedings can re-traumatize victims' loved ones.



Courts in over 68 counties across PA would be required to make determinations on individuals' felony murder sentences. In addition to being an extreme burden, this process would be slow moving and produce disparate results.