



# TASK FORCE ON AIDING & ABETTING FELONY MURDER

2021 Legislative Commissioned Task Force

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## Task Force on Aiding and Abetting Felony Murder

Report to the Minnesota Legislature

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## Task Force on Aiding and Abetting Felony Murder

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# Executive summary

## Background

Two legal doctrines in Minnesota – *aiding and abetting liability* and *felony murder* – converge to allow anyone who contributes to a felony to be charged with and punished for murder if a death occurs during the course of the felony, even if that person did not cause death, cause any injury to the deceased, nor intend for anyone to die. *Aiding and abetting liability* means that people are criminally liable for the crime of another if the first person aids, advises, counsels, or conspires to commit that crime (Minnesota Statutes 2021, section 609.05). Under the doctrine of *felony murder*, anyone who kills another during the course of committing a felony is liable for murder, even if they did not intend for death to result (Minnesota Statutes 2021, section 609.185 and 609.195). Taken together, this means that people in Minnesota can be punished for murder when they did not kill, injure, or even intend harm, so long as they contribute to a felony, and a death results during the course of the felony (called “aiding and abetting felony murder”).

In June 2021, the Minnesota Legislature established the Task Force on Aiding and Abetting Felony Murder (Task Force) (Laws of Minnesota 2021, 1st Spec. Sess. chapter 11, article 2, section 53) in order to understand any benefits and unintended consequences of Minnesota’s aiding and abetting felony murder doctrine. The Task Force organized into three subcommittees. One to collect and analyze data about charges, convictions, and sentences under the doctrine, one to review statutes and case law across the 50 states, and one to invite input from victims’ loved ones and those impacted by the current doctrine. In November 2021, the Task Force hired Wilder Research to review literature, aid in data analysis, and write the report to the legislature. This report summarizes this task force’s work, findings, and recommendations.

## Key findings

*Studies on deterrence, incarceration’s lack of impact on re-offense, and adolescent brain development raise concerns with this doctrine.*

To contextualize the issue, Wilder Research staff reviewed research on deterrence, incarceration’s impact on re-offense, and adolescent brain development. Decades of studies show that the threat of punishment alone does not deter crime (Rocker, 2021), that incarceration compared to non-custodial sanctions has no impact on re-offense or tends to *increase* the risk that the person who experiences incarceration will reoffend (Petrich et al., 2021), and that those in their teens through mid-20s are in a unique stage of brain development that make them less capable to assess risk and consequences, and more apt to be motivated by emotion and peer pressure than those older (Dobscha, 2019; Johnson et al., 2009). With this, Task Force members were concerned that Minnesota’s aiding and abetting felony murder doctrine does not deter behavior, does not reduce the risk of re-offense, and may especially harm those in their mid-20s and younger who are held liable under this doctrine.

*Young people, people charged by Hennepin County, Black people, and males with little to no prior criminal history make up the largest groups of people charged, convicted, and sentenced under this doctrine.*

From 2010 through 2019, there have been 130 people charged with aiding and abetting felony murder across Minnesota, and 84 people convicted of aiding and abetting felony murder as the most severe conviction. The Task Force analyzed patterns in charges, convictions, and sentences, and found that people 25 years and younger, people in Hennepin County, Black people, and people with little to no criminal history are those most frequently impacted by aiding and abetting felony murder liability. The Task Force was concerned with geographic, race, and age disparities that have happened under this doctrine.

*Recent national trends are to limit aiding and abetting felony murder liability, not expand it.*

The Task Force reviewed felony murder and aiding and abetting liability statutes from the 50 states, and also seminal state appellate or state Supreme Court cases relevant to aiding and abetting felony murder liability in Minnesota and around the country. The Task Force also heard presentations about whether other common law countries apply felony murder liability. The United States is the only common law country that has not yet abolished felony murder liability generally, and past decades have seen U.S. state legislatures and review courts abolish and otherwise limit aiding and abetting felony murder liability.

*Victims and those convicted under the doctrine support limiting aiding and abetting felony murder liability, with avenues for retroactive relief.*

The Task Force invited connection with victims' families through contacting 37 victim/survivor organizations, and heard from victims' families through the Minnesota Alliance on Crime (MAC). MAC is a statewide coalition of victim/survivor advocate organizations; 75% of their membership are victim-witness programs in county attorney offices, and the rest are community-based organizations. The Task Force also heard from 10 people convicted under this doctrine, and one person who rejected a deal to plead guilty to aiding and abetting felony murder. MAC expressed support for retroactive reform such that aiders and abettors of an underlying felony are not punished for the homicidal acts of another, and said that such retroactive reforms would be supported by the vast majority of its members. Impacted individuals expressed accountability for their role in the underlying felony and shared many difficulties stemming from being held criminally liable for the homicidal acts of another. Those impacted individuals who spoke on the subject strongly supported retroactive reforms to limit aiding and abetting felony murder liability.

*The adverse consequences of Minnesota's aiding and abetting felony murder doctrine outweigh its benefits.*

After analyzing the above key findings, the Task Force agreed that the adverse consequences of the current aiding and abetting felony murder doctrine outweigh its benefits.

## Recommendations

Task Force members unanimously recommend:

1. Revising relevant statutes to limit aiding and abetting felony murder liability
2. Revising relevant statutes such that those previously convicted may petition for limited relief
3. Implementing reforms beyond mere adoption of an affirmative defense
4. Expanding the Task Force's mandate and timeline to undertake similar work on felony murder and/or aiding and abetting liability generally

# Background

## Task Force on Aiding and Abetting Felony Murder

Two legal doctrines in Minnesota – aiding and abetting liability and felony murder – converge to allow anyone who contributes to a felony to be charged with and punished for murder if a death occurs during the course of the felony, even if that person did not cause death, cause any injury to the deceased, nor intend for anyone to die. Aiding and abetting liability means that people are criminally liable for the crime of another if the first person aids, advises, counsels, or conspires to commit that crime (Minnesota Statutes Sec. 609.05). Under the doctrine of felony murder, anyone who kills another during the course of committing a felony is liable for murder, even if they did not intend for death to result (Minnesota Statutes Secs 609.185 and 609.195). Taken together, this means that people in Minnesota can be punished for murder when they did not kill, injure, or even intend harm, so long as they contribute to a felony, and a death results during the course of the felony.

The felony murder doctrine has its roots in common law England. As most felonies at the time were punishable by death, the doctrine had little significance: an actor could be sentenced to death for the death they unintentionally caused, or for the predicate felony (Egan, 2018). While there are no capital offenses in Minnesota, the doctrine continues with the idea that punishing people for death, even when they did not intend to cause it, will deter people from dangerous acts (Frase, 2021). England abolished this doctrine more than 50 years ago, as has every other common law country (including Scotland, Ireland, India, and Canada; see Figure 20, “Timeline”).

In June 2021, the Minnesota Legislature established the Task Force on Aiding and Abetting Felony Murder (Task Force) (Laws of Minnesota 2021, 1st Spec. Sess. chapter 11, article 2, section 53). The legislature directed the Task Force to:

- Collect and analyze data on the charging, convicting, and sentencing of people for aiding and abetting felony murder
- Collect and analyze data on sentences for aiding and abetting felony murder in which a person received a mitigated durational departure because the person played a minor or passive role in the crime or participated under circumstances of coercion or duress
- Collect and analyze data on charges, convictions, and sentences for codefendants of people sentenced for aiding and abetting felony murder
- Review relevant state statutes and state and federal court decisions
- Receive input from individuals who were convicted of aiding and abetting felony murder, and input from family members of individuals who were victims of felony murder
- Analyze the benefits and unintended consequences of the current aiding and abetting felony murder doctrine in Minnesota, including but not limited to an analysis of whether current statutes and practice promote public safety and properly punish people for their role in an offense, and
- Make recommendations for legislative action, if any, on laws affecting the collection and reporting of data, and the charging, convicting, and sentencing of people for aiding and abetting felony murder

The legislature required the Task Force to have 12 members with a variety of connections to and expertise relevant to the issue, including:

- An employee of the Department of Corrections
- The Director of the Minnesota Sentencing Guidelines Commission
- A state public defender
- The statewide coordinator of the Violent Crime Coordinating Council
- A defense attorney appointed by the Minnesota Association of Criminal Defense Lawyers
- One Metro-area county attorney
- One rural Minnesota county attorney
- A police officer familiar with felony murder appointed by the Minnesota Sheriffs' Association and the Minnesota Chiefs of Police Association
- One person representing a victims' rights organization appointed by the senate majority leader
- One member of a statewide civil rights organization appointed by the speaker of the house
- One impacted person directly related to a person convicted of felony murder appointed by the governor
- One person with expertise about the laws and practices of other states appointed by the governor

The Task Force began its work in July 2021. The Task Force organized into three Subcommittees. The Data Subcommittee requested and analyzed data on aiding and abetting felony murder charges, convictions, and sentences. The Statute and Case Law Subcommittee undertook a 50-state review of aiding and abetting felony murder statutes and seminal case law around the country. The Engagement Subcommittee worked to understand the perspectives of the loved ones of victims of murder where individuals involved were charged with aiding and abetting felony murder, as well as the perspectives of those convicted and sentenced for aiding and abetting felony murder. Find summaries of Task Force and Subcommittee meetings and work in Appendix A. [Task Force meeting minutes and recordings are on the Department of Corrections website](https://mn.gov/doc/about/legislative-info/aiding-abetting/) (<https://mn.gov/doc/about/legislative-info/aiding-abetting/>).

In November 2021, the Minnesota Department of Corrections contracted with Wilder Research to prepare the report to the legislature of the Task Force's work, findings, and recommendations.

## **An urgent context**

Across the United States and locally, rates of certain types of violence have risen dramatically since 2019 (though rates of homicides locally and nationally remain far below homicide rates in the 1990s, and even further below the homicide rates for much of the 1970s and 1980s) (Rosenfeld & Lopez, 2020; Schleimer et al., 2022; Gramlich, 2021; Mannix & Hargarten, 2021). Poor and Black communities have disproportionately suffered the increases in homicide, firearm violence, and aggravated assault (Schleimer et al., 2022). Were zip codes with the highest incomes and highest proportion of White people to suffer the same violence increases, researchers found that “there would be approximately 14.1 more firearm violence incidents, 146.2 more aggravated assaults, and 4.9 more homicides per zip code” (Schleimer et al., 2022, p. 148). Data from Minneapolis mirrors this trend. Around 3 in 4 homicides in 2021 took place in the relatively disadvantaged Southside, North Side, and Central Minneapolis neighborhoods, leaving the wealthiest parts of the city relatively unaffected (Mannix & Hargarten, 2021). Further, while Census data show that White people make up 60% of Minneapolis' population, 75% of victims were Black

or Somali, and an additional 11% of murder victims where the race was known were non-White and Hispanic (Mannix & Hargarten, 2021).

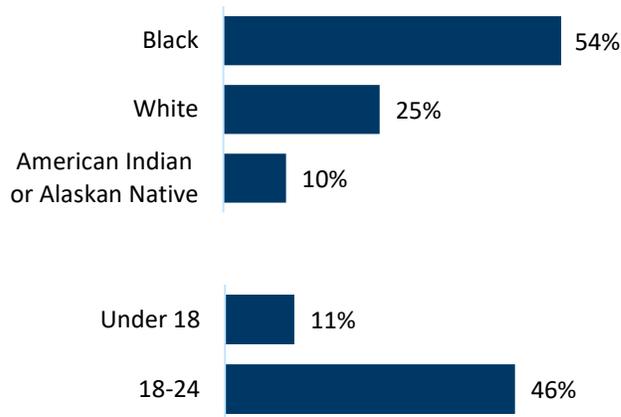
While there is not research consensus yet about why violence has risen in recent years, data from around the country is clear that murders rose in jurisdictions with Democratic and Republican leadership, and in jurisdictions “that adopted criminal justice reforms and those that didn’t” (Lopez, 2021). Local and national experts hypothesize that a combination of pandemic conditions, police backing off from proactive policing and public losing trust in police, and easy access to guns could be driving violence and lethal violence (Lopez, 2021). In the Midwest, federal investigators seized 1,021 illegal guns from September 2020 to September 2021, a 167% increase from the 611 seized from September 2019 to September 2020 (Mannix & Hargarten, 2021).

It is in this urgent context, where there is great need and opportunity to implement policies that advance safety, that the Task Force undertook its work.

### Who is impacted by felony murder?

In beginning to understand the impact of Minnesota’s aiding and abetting felony murder doctrine, the Task Force drew from understanding of who is impacted by felony murder. [According to Minnesota Department of Corrections data presented at the August 18, 2021 Task Force meeting and available online](https://mn.gov/doc/assets/Aiding%20and%20Abetting%20Felony%20Murder%20Task%20Force%20-%20Data%20Overview%20-%20August%202021_tcm1089-494595.pdf) (https://mn.gov/doc/assets/Aiding%20and%20Abetting%20Felony%20Murder%20Task%20Force%20-%20Data%20Overview%20-%20August%202021\_tcm1089-494595.pdf), one-third of individuals incarcerated for murder in Minnesota are incarcerated under the felony murder doctrine (i.e., they are incarcerated for a death resulting from the commission of a felony). Of those serving time for felony murder:

**Figure 1. Race and age of those incarcerated for felony murder in Minnesota as of August 18, 2021.**



- The average sentence is 288 months (24 years). Excluding those sentenced to life without parole, White people received an average sentence of 278 months, Black people received an average sentence of 286 months, American Indian or Alaskan Native people received an average sentence of 300 months, Asian American or Pacific Islanders received an average sentence of 320 months, and Hispanic people received an average sentence of 314 months

According to data from the Minnesota Sentencing Guidelines Commission, of those sentenced from 2012 through 2018 for second degree felony murder in Hennepin and Ramsey Counties, 20% were White and 80% were people of color (Egan, 2021). Normalized for population, this means Twin Cities-area people of color are 12 times more likely to be convicted of second degree felony murder than White people. Further, 67% of White defendants convicted of second degree felony murder initially faced more serious homicide charges or indictments, while 62.5% of defendants of color did not (Egan, 2021). Finally, White defendants receive mitigated sentences 2.5 times more frequently than they receive aggravated sentences for second degree felony murder convictions, while defendants of color receive aggravated departures just as frequently as mitigated departures (Egan, 2021). Where most White people are convicted of second degree felony murder as an alternative to a more serious charge, most people of color are convicted of second degree felony murder as *the* most serious charge. There are concerns that the application of second degree felony murder benefits White people and disproportionately punishes people of color.

## Concerns raised by Minnesota’s aiding and abetting felony murder doctrine

Unanimous consensus emerged among the Task Force that Minnesota’s current aiding and abetting felony murder doctrine raises serious concerns that should be addressed. In order to contextualize the Task Force’s work, Wilder Research staff reviewed scholarly literature on aiding and abetting felony murder, felony murder, and incarceration’s impact on preventing and intervening in harm. We present a summary of this research here.

### *Critiques of aiding and abetting felony murder doctrines*

A review of the literature showed four key concerns with aiding and abetting felony murder doctrines like Minnesota’s. Over many meetings, and in the “Impacts” and “Recommendations” section below, the Task Force discussed members’ consensus that they share these concerns, and advance recommendations to address them. Concerns are:

- 1. A lack of fairness.** Under Minnesota’s aiding and abetting liability statutes, someone who contributes to a scheme can be punished as if they were the principal or sole contributor to the harm. Relevant to this Task Force, someone who is hundreds of feet away from acts causing death – indeed, someone who is not even aware those acts are happening – can be punished for murder just the same as the person who factually caused death. People who are not equally culpable can be punished as if they were, raising fairness concerns (O’Herron, 2010).
- 2. The possibility of disproportionate punishment.** Again, in Minnesota, someone who did not actually cause death nor harm another can be punished for murder. This raises concerns that Minnesota’s felony murder doctrine leads to punishments that are disproportionately harsh for the actions undertaken (O’Herron, 2010).
- 3. A lack of foreseeability.** Minnesota is one of just six states where there is no statute limiting the underlying felonies that could lead to second degree felony murder liability (O’Herron, 2010), meaning that potentially any felony can form the foundation for aiding and abetting felony murder liability. Minnesota judges have limited liability for second degree felony murder to those instances where the underlying felony is one that poses a “special danger to human life,” both in the abstract and as committed (*State v. Anderson*, 2003). However, the Minnesota Legislature has not defined which felonies are on this “special danger” list. This

raises concerns that someone who could not foresee that death would result could be punished as if the death were foreseeable (O’Herron, 2010). This is because, where a death occurs during the course of a felony that neither seems dangerous nor has appeared on judges’ “special danger” list, the fact of the death may be enough to convince a judge to include this new felony on the “special danger” list and subject the defendant to felony murder liability.

4. **A disregard of intent to harm.** A fundamental principle of criminal law is to hold people liable for the harms they caused intentionally, knowingly, or recklessly (Frase, 2021). Minnesota’s felony murder doctrine allows all those who contribute to a scheme where someone dies to be liable for murder, irrespective of their mental state. The defendant’s intent to harm another – or not – may not impact the punishment they receive. Defendants in Minnesota have been charged with felony murder on the basis of an accidental discharge of a firearm (Egan, 2021). Critics argue that “evil intent is not equal for all,” and that there is serious harm in ignoring differences in intent across actors (O’Herron, 2010, p. 11).

### *Data-driven concerns*

Research is clear that punishment schemes that are achievable under our constitutional protections and system limits are ineffective at deterring crime. Research is further clear that incarceration, compared with non-custodial sanctions, does not reduce recidivism. (Recidivism is the tendency for someone previously convicted of a crime to reoffend.) Finally, research is clear that the unique neurobiological phase of adolescent brain development raises additional concerns with the effectiveness of punishment on the behavior of those aged 25 and younger. Over many meetings, and in the “Impacts” and “Recommendations” section below, the Task Force discussed members’ consensus that they share these concerns, and advance recommendations to address them. Concerns are:

1. **Research shows that harsh punishment alone does not deter crime (Rocker, 2021).** While some people believe that the threat of punishment prevents people from committing crime, reviews of most deterrence research find that such punishment threats have little to no effect on crime rates (Rocker, 2021). Some research has found that certain (though unrealistic) punishment schemes can prevent someone from reoffending, however. These schemes require:
  - a. “the immediate delivery of a punishment,
  - b. catching and punishing [people] for every offense,
  - c. not allowing [people] to be able to escape from the consequences of the behavior,
  - d. making the intensity of the punishment associated with the behavior greater than the intensity of the rewards, and
  - e. the punishment to be consistent with the characteristics of the [person punished]” (James, 2018, p. 18).

Minnesota’s aiding and abetting felony murder doctrine does not meet the conditions under which threat of punishment deters re-offense for a number of reasons:

- Criminal courts cannot achieve immediacy of punishment without violating constitutional rights to due process, so requirement “a.” above cannot be met (this applies to punishment schemes beyond aiding and abetting felony murder doctrines).

- A host of limitations means leaves offenses unreported, undetected, and unpunished, so requirement “b.” above cannot be met (this applies to punishment schemes beyond aiding and abetting felony murder doctrines).
  - Foreseeability concerns (“A lack of foreseeability,” above) mean Minnesota’s aiding and abetting felony murder doctrine fails to meet the requirement that the intensity of punishment associated with behavior is greater than rewards (requirement “d.”). This lack of foreseeability means that there is little to no punishment associated with the behavior in the mind of the actor. Further, information from a survey of 600 people incarcerated in California for felony murder found that fewer than 1% of respondents knew that the doctrine existed prior to conviction (Chatfield, 2021).
  - Concerns with a lack of fairness, the possibility of disproportionate punishment, and disregard of intent to harm (above) mean that Minnesota’s aiding and abetting felony murder doctrine fails to meet the requirement that the punishment is consistent with the characteristics of the person punished (requirement “e.” above).
2. **Research shows that incarceration either has no impact on recidivism, or *increases* the risk that a person will reoffend (Petrich et al., 2021).** A recent meta-analysis of 116 studies found that jail and prison “have no effect on reoffending or slightly increase it when compared with the effects of noncustodial sanctions such as probation” (Petrich et al., 2021, p. 1). This research builds on and is consistent with all other prior meta-analyses; every comprehensive review of studies comparing the effects on re-offense of custodial versus noncustodial sanctions has found that “custodial sanctions, overall, do not reduce reoffending” (p. 49). The 2021 study is the first comprehensive review since 2010, and included review of 116 studies through 2019. Researchers ran three phases of analysis of the impacts of sanctions on re-offense and found that, on average, being sentenced to custody has the same or slightly worse re-offense rates than noncustodial sanctions (Petrich et al., 2021). This finding held true across studies using different research methods, studies examining different types of sanctions (jail *or* prison compared to probation or treatment, etc.), and studies of people with different sociodemographic characteristics (Petrich et al., 2021). Put simply, “there does not appear to be a particular group of [people] that are more deterrable by incarceration than others, nor a particular type of research design that points to a deterrent effect when others do not” (Petrich et al., 2021, p. 47). This fact provides a key foundation for the Task Force’s work, particularly its assessment of the public safety impacts of a doctrine that allows those who did not kill to be punished for murder.
  3. **Felony murder doctrines are especially concerning as applied to people with adolescent brains, due to the unique neurobiology of adolescence.** Brain researchers have found that the adolescent brain continues to develop into the mid-20s (Johnson et al., 2009), meaning that those younger are still developing their ability to control behavior, moderate impulsivity, and accurately assess consequences (Dobscha, 2019). Special consideration of the unique nature of adolescent brain development is warranted as most (57%) people charged with aiding and abetting felony murder in Minnesota from 2010 through 2019 were in their mid-20s or younger (see, “Young people face most aiding and abetting felony murder charges,” below). Additionally, the United States Supreme Court has recognized the unique period of adolescent brain development, finding teenagers “less able to evaluate the consequences of [their] conduct while at the same time [being] much more apt to be motivated by mere emotion or peer pressure than is an adult” (Dobscha, 2019, pp. 149-150). Adolescents are less capable than adults to foresee that a death

may result from a course of action, less likely to know that they could be held criminally liable for another's actions, and less able to suppress impulses or resist peer pressure that lead to aiding and abetting others' course of conduct, and scholars argue that adolescents should, therefore, be held less liable under felony murder doctrines for deaths they did not intend to cause (Dobscha, 2019; Drizin et al., 2004; Kokkalera et al., 2021; Shitama, 2013).

In sum, the current structure of Minnesota's aiding and abetting felony murder doctrine raises theoretical concerns about a lack of fairness, the possibility of disproportionate punishment, a lack of foreseeability, and a disregard of intent. Further, the conditions under which punishment may deter behavior are not met by the doctrine, and adolescent brain development means that those in their mid-20s and younger may be especially harmed by being held liable for another's actions. Finally, universal research consensus about the impact of incarceration versus noncustodial sanctions on re-offense means that being incarcerated for murder when one did not kill does not reduce the risk of future re-offense.

## Who is punished under Minnesota’s aiding and abetting felony murder doctrine

The Task Force was required to collect and analyze data on charges, convictions, and sentences for aiding and abetting felony murder. The Task Force convened a Data Subcommittee to advance this work. Here, we present key limitations and findings from this subcommittee’s work. Find a summary of the Data Subcommittee’s work process in Appendix A. Find a diagram of the ages, races, regions, convictions, and sentences for those charged with aiding and abetting felony murder in Appendix B.

### Limits

The data reviewed are subject to a few limitations that stem from different data management practices of different agencies and branches of government, and the time-consuming nature of retrieving relevant data from various agencies. The Subcommittee received information from the Minnesota Judicial Branch on all those charged with aiding and abetting felony murder in Minnesota from 2010 through 2019 where a conviction (for any crime) resulted. (Cases where aiding and abetting felony murder was charged, but resulted in acquittal or dismissal of all charges were excluded from this dataset.) There were 138 people charged during this timeframe, though 8 of these people were charged with *attempted* aiding and abetting felony murder and are excluded from most of the analysis of cases charged. The dataset of 130 people charged with aiding and abetting felony murder (excluding attempts) includes information about the county where the charges were filed, and the age and gender of the person charged. Information about the race(s) of people charged is included in the aggregate of all those charged (including attempts; N=138), but not attached to each case. This dataset does not include information about cohorts or co-defendants. Find the full dataset of Minnesota Judicial Branch data in Appendix B.

The Subcommittee also received information from the Minnesota Sentence Guidelines Commission about all those convicted of aiding and abetting felony murder as the most serious offense in their case (“top-line offense”) from 2010 through 2019. This dataset included information about the county where charges were filed, the age, gender, and race of the person convicted, and information necessary to identify each person’s co-defendant(s) (if any). The ceiling serves as a limitation; if someone was convicted of premeditated murder in addition to aiding and abetting felony murder, they were excluded from this dataset. This exclusion could hide data key to understanding charging, conviction, and sentencing patterns from around the state. For example, if people in Greater Minnesota are frequently convicted of premeditated murder along with aiding and abetting felony murder, while people in the Metro are not, it could mean that those convicted of aiding and abetting felony murder in Greater Minnesota are frequently more culpable of homicidal acts than those convicted under the doctrine in the Metro. However, the conviction ceiling means that we are unable to ascertain if such patterns exist across place, race, or other variables.

Find the full dataset of Minnesota Sentencing Guidelines Commission data in Appendix C.

Subcommittee and Wilder Research staff analyzed the judicial branch and Minnesota Sentencing Guidelines Commission data to understand charging, conviction, and sentencing practices, subject to the limitations above.

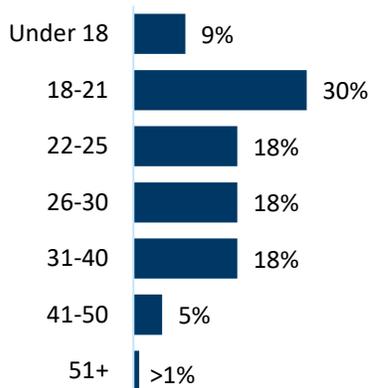
## Findings

*Young people, people from Hennepin County, Black people, and males make up a large portion of those **charged** under the doctrine*

### Young people face most aiding and abetting felony murder charges

From 2010 through 2019, most people charged with aiding and abetting felony murder were 25 years old or younger at the time of charging (57%; Figure 2).

**Figure 2. Aiding and abetting felony murder charges by age at the time of charge filing, 2010-2019 (N=130)**



### Hennepin County leads charges compared to other counties or regions in the state

From 2010 through 2019, there were 130 people charged with aiding and abetting felony murder cases in Minnesota. Of those, nearly a third were charged in Hennepin County (32%; Figure 3).

**Figure 3. Charges of aiding and abetting felony murder by region, 2010-2019 (N=130)**



### Hennepin County charges more young people with aiding and abetting felony murder than any other county or region

Comparing charging practices in Hennepin County to Ramsey County, all other metro counties (Anoka, Carver, Dakota, Scott, and Washington), and all Greater Minnesota counties, we see that Hennepin County levies aiding and abetting felony murder charges against more people age 21 years and younger than any other county or region

region (Figure 4). More than half (58%) of aiding and abetting felony murder charges against minors (under age 18) are levied by Hennepin County; 41% of aiding and abetting felony murder charges against those age 18-21 are filed by Hennepin County. In contrast, Ramsey County charged zero people under age 18 with aiding and abetting felony murder; 14% of aiding and abetting felony murder charges against those age 18-21 are filed by Ramsey County. According to U.S. Census data, 21% of Minnesota’s 15-24 year olds live in Hennepin County, and 10% of Minnesota’s 15-24 year olds live in Ramsey County (Minnesota Compass, 2020).

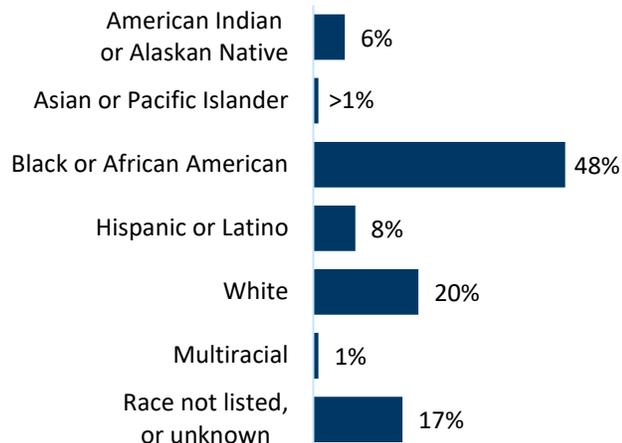
**Figure 4. Aiding and abetting felony murder charges by age and region, 2010-2019 (N=130)**

Region	Under 18	18-21 years old	22-25 years old	26-30 years old	31-40 years old	41-50 years old	51+ years old
Hennepin County (N=42)	7 (17%)	16 (38%)	5 (12%)	6 (14%)	6 (14%)	2 (5%)	-
Ramsey County (N=33)	-	5 (15%)	9 (27%)	9 (27%)	6 (18%)	3 (9%)	1 (3%)
Other Metro counties (N=21)	4 (19%)	7 (33%)	1 (5%)	4 (19%)	4 (19%)	1 (5%)	-
Greater MN counties (N=34)	1 (3%)	11 (32%)	8 (24%)	5 (15%)	8 (24%)	1 (3%)	-

**Aiding and abetting felony murder charges disproportionately impact Black people**

According to race data from the U.S. Census, Black people comprise 6.9% of Minnesota’s 2020 population (Minnesota Compass, 2020). From 2010 through 2019, nearly half of all aiding and abetting felony murder charges were brought against Black people (48%; Figure 5.). This may be an undercount as well, given the number of people whose race is unknown

**Figure 5. Charges of aiding and abetting felony murder by race, 2010-2019 (N=138; includes aiding and abetting felony murder – attempt)**



### Most charges are against males

From 2010 through 2019, almost all people who were charged with aiding and abetting felony murder were male (85%; Figure 6).

**Figure 6. Charges of aiding and abetting felony murder by gender, 2010-2019 (N=130)**

Female	Male	Gender not listed, or unknown
16 (12%)	111 (85%)	3 (2%)

*Young people, people from Hennepin County, Black people, males, and people with zero prior offenses make up a large portion of those **convicted** under the doctrine*

### Young people comprise most of those convicted for aiding and abetting felony murder

From 2010 through 2019, most people who were convicted of aiding and abetting felony murder as a top-line offense were 25 years old or younger at the time of the offense (63%; Figure 7).

**Figure 7. Convictions for aiding and abetting felony murder by age at time of offense, 2010-2019 (N=84)**

Under 18	18-21 years old	22-25 years old	26-30 years old	31-40 years old	41-50 years old	51+ years old
9 (11%)	26 (31%)	18 (21%)	13 (15%)	11 (13%)	6 (7%)	1 (1%)

### Hennepin County has more convictions than other places

From 2010 through 2019, Hennepin County accounted for the largest number of people who were convicted of aiding and abetting felony murder as a top-line offense (42%; Figure 8).

**Figure 8. Convictions where aiding and abetting felony murder was most serious conviction by region, 2010-2019 (N=84)**

Hennepin County	Ramsey County	Other Metro counties	Greater Minnesota
35 (42%)	16 (19%)	17 (20%)	16 (19%)

### Aiding and abetting felony murder convictions disproportionately impact Black people

From 2010 through 2019, most people who were convicted of aiding and abetting felony murder as a top-line offense in Minnesota were Black (62%; Figure 9). We note that race categories are not the same across the Judicial Branch and Sentencing Guidelines Commission, and that the Sentencing Guidelines Commission may have more complete race data (leading to no “race not listed, or unknown” counts, and possibly explaining why 3 Asian people were convicted of aiding and abetting felony murder when just 1 was listed as charged with the same).

**Figure 9. Convictions where aiding and abetting felony murder was most serious conviction by race, 2010-2019 (N=84)**

American Indian	Asian	Black	Hispanic	White
5 (6%)	3 (4%)	52 (62%)	7 (8%)	17 (20%)

### Nearly all convictions are of males

From 2010 through 2019, almost all people who were convicted of aiding and abetting felony murder as a top-line offense were male (89%; Figure 10).

**Figure 10. Convictions of aiding and abetting felony murder by gender, 2010-2019 (N=84)**

Female	Male
9 (11%)	75 (89%)

## Most convictions are of people with no prior convictions for offenses against a person

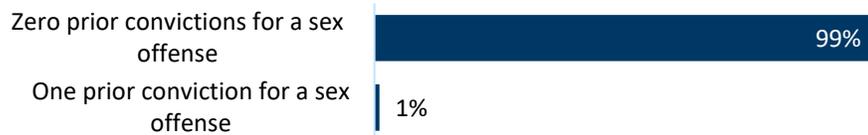
Of the people convicted of aiding and abetting felony murder as a top-line offense from 2010 through 2019, most had no prior convictions for crimes against a person, and otherwise very limited criminal history. Of these 84 people:

**Figure 11: Prior convictions and criminal history scores of those convicted of aiding and abetting felony murder as a top-line offense in Minnesota from 2010 through 2019.**

- 56 had zero prior convictions for offenses against a person (67%), and 15 had one prior conviction for an offense against a person (18%)



- 83 had zero prior convictions for a sex offense (99%); one person had one prior conviction for a sex offense (1%)



- 52 had a prior criminal history score of 2.0 or less (62%), including 32 people who had no prior criminal history (38% of 84), and 10 people who had a criminal history score of 1.0 (12%)



## More than one in three aiding and abetting felony murder charges results in a conviction for a less serious offense

Wilder Research staff analyzed the most serious convictions for those charged with aiding and abetting felony murder in Minnesota from 2010-2019, excluding those cases of attempted aiding and abetting felony murder (N=130). Staff coded the most serious convictions into four categories:

1. Lesser offenses, including aggravated robbery, accomplice after the fact, or attempted murder (included here because the attempt indicates that no death resulted)
2. Aiding and abetting felony murder
3. Aiding and abetting murder
4. Murder, including felony murder

Using these four categories, we analyzed patterns across case resolution type (court or jury trial versus plea bargain), and region.

First, where people are charged with aiding and abetting felony murder, the most frequent conviction type is to a lesser offense (Figure 12), though there are differences across geography. People charged with aiding and abetting felony murder tend to be convicted of lesser offenses across the state (37% convicted of lesser offenses), in Ramsey County (45% convicted of lesser offenses), and Greater Minnesota (47% convicted of lesser offenses). However in Hennepin County, and Metro-area counties excluding Hennepin and Ramsey, the most frequent conviction result is a conviction for aiding and abetting felony murder (31% and 43%, respectively).

Additionally, where people exercise their right to a trial, they are more frequently convicted of more serious charges like aiding and abetting murder, and murder (including felony murder) than those who resolve their charges through a guilty plea (Figure 12).

**Figure 12. Most serious conviction type for those charged with aiding and abetting felony murder by region and resolution type (trial or plea bargain), 2010-2019**

Region	Lesser offense	Aid/Abet Felony Murder	Aid/Abet Murder	Murder (including felony murder)
Hennepin County trial (N=10)x	3 (30%)	2 (20%)	2 (20%)	3 (30%)
Hennepin County plea (N=32)	9 (28%)	11 (34%)	5 (16%)	7 (22%)
Henn. County total (N=42)	12 (29%)	13 (31%)	7 (17%)	10 (24%)
Ramsey County trial (N=10)	3 (30%)	2 (20%)	2 (20%)	3 (30%)
Ramsey County plea (N=23)	12 (52%)	3 (13%)	3 (13%)	5 (22%)
Ramsey County total (N=33)	15 (45%)	5 (11%)	5 (11%)	8 (18%)
Other Metro trial (N=1)	-	-	1 (100%)	-
Other Metro plea (N=20)	5 (25%)	9 (45%)	2 (10%)	4 (20%)
Other Metro total (N=21)	5 (24%)	9 (43%)	3 (14%)	4 (29%)
Greater MN trial (N=9)	3 (33%)	1 (11%)	3 (33%)	2 (22%)
Greater MN plea (N=25)	13 (52%)	6 (24%)	3 (12%)	3 (12%)
Greater MN total (N=34)	16 (47%)	7 (21%)	6 (18%)	5 (15%)

**Most aiding and abetting felony murder convictions are of people who were principally responsible for the homicide**

From 2010 through 2019, most people who were convicted of aiding and abetting felony murder as a top-line offense were principally responsible for the homicidal acts (N=48; 57%). Put another way, most people convicted of aiding and abetting felony murder were factually responsible for death, as opposed to merely aiding and abetting the underlying felony during which the death occurred (Figure 13).

This pattern holds true across geographic region. Whether in Hennepin County, Ramsey County, another Metro county, or Greater Minnesota counties, more people are convicted of aiding and abetting felony murder as a top-line count where the police report and court records indicated that that person was principally responsible for the murder.

Task Force members expected this data due to aiding and abetting liability. Where two or more people commit a crime together, both the principal and non-principals frequently are charged with aiding and abetting. Those who truly aid/abet the felony may plead to lesser offenses, leading to aiders/abettors dropping out of the dataset of those who are convicted of aiding and abetting felony murder as a top-line offense. Aiders/abettors frequently pled to lesser offenses, which likely accounts for instances where those convicted of aiding and abetting felony murder as a top-line offense are, in fact, principally responsible for death.

**Figure 13. Convictions for aiding and abetting felony murder as top-line offense where court records indicate the person was principally responsible for the homicidal acts, or merely aided or abetted the felony, by region, 2010-2019 (N=84)**

Region	Principal (N=48)	Aider/abettor (N=33)	Unknown (N=3)
Hennepin County	20 (24%)	14 (17%)	1 (1%)
Ramsey County	9 (11%)	6 (7%)	1 (1%)
Other Metro counties	10 (12%)	7 (8%)	-
Greater MN counties	9 (11%)	6 (7%)	1 (1%)

There are differences across races. Most Hispanic and White people convicted of aiding and abetting felony murder as a top-line count from 2010 through 2019 are accomplices; most Black people convicted of the same are principal actors (Figure 14).

**Figure 14. Convictions for aiding and abetting felony murder as top-line offense where court records indicate the person was principally responsible for the homicidal acts, or merely aided or abetted the felony, by race, 2010-2019 (N=84)**

Role	American Indian (N=5)	Asian (N=3)	Black (N=52)	Hispanic (N=7)	White (N=17)
Aider/Abettor	-	1 (33%)	16 (31%)	5 (71%)	11 (65%)
Principal	5 (100%)	2 (66%)	35 (67%)	1 (14%)	5 (29%)
Unknown	-	-	1 (2%)	1 (14%)	1 (6%)

Additionally, 20% of those convicted of aiding and abetting felony murder as a top-line offense not only were the principal actors, but were also the sole person charged with anything related to the crime (N=17). Hennepin County levied 71% of such charges statewide. Black (N=11) and Native (N=2) people comprise the vast majority of people who are impacted by these practices (76% of convictions for aiding and abetting felony murder where nobody else faces criminal charges). See Figure 15.

**Figure 15. People convicted of aiding and abetting felony murder, by race and region, where nobody else faces charges related to the course of action (N=17)**

Region	American Indian	Asian	Black	White
Hennepin County	2 (12%)	-	10 (59%)	-
Ramsey County	-	1 (6%)	1 (6%)	-
Other Metro	-	1 (6%)	-	-
Greater MN counties	-	-	-	2 (12%)

*Hennepin County imposes long sentences for young people more frequently than other geographies. Most sentences are within guidelines range, and people who plead guilty tend to receive shorter sentences than those found guilty at trial.*

**More than other counties and regions, the very young face long prison sentences for aiding and abetting felony murder in Hennepin County**

Relevant to research showing the unique attributes of adolescent brain development extending into the mid-20s, data from the Minnesota Judicial Branch shows that people younger than 26 years old are sentenced to years in prison for aiding and abetting felony murder. Hennepin County is the county in Minnesota where most young people are convicted. Most 16 and 17 year olds in Hennepin County convicted of aiding and abetting felony murder are sentenced to more than 20 years in prison (57%; Figure 16).

**Figure 16. Sentence length by age and county of conviction.**

Region	0 – 5 years	5.01 – 10 years	10.01 – 20 years	20.01 – 30 years	30.01 – 40 years	Life
Hennepin County 16–17 year olds (N=7)	1 (14%)	1 (14%)	1 (14%)	2 (29%)	1 (14%)	1 (14%)
Hennepin County 18–21 year olds (N=16)	1 (6%)	3 (19%)	9 (56%)	2 (13%)	1 (6%)	-
Henn. Co. 22–25 year olds (N=5)	-	2 (40%)	3 (60%)	-	-	-
Ramsey County 16–17 year olds (N=0)	-	-	-	-	-	-
Ramsey Co. 18–21 year olds (N=5)	2 (40%)	-	2 (40%)	1 (20%)	-	-
Ramsey Co. 22–25 year olds (N=9)	1 (11%)	-	5 (55%)	2 (22%)	1 (11%)	-

Region	0 – 5 years	5.01 – 10 years	10.01 – 20 years	20.01 – 30 years	30.01 – 40 years	Life
Other Metro 16–17 year olds (N=4)	1 (25%)	1 (25%)	2 (50%)	-	-	-
Other Metro 18–21 year olds (N=7)	1 (14%)	-	4 (57%)	2 (29%)	-	-
Other Metro 22–25 year olds (N=1)	-	1 (100%)	-	-	-	-
Greater MN 16–17 year olds (N=1)	-	-	-	-	1 (100%)	-
Greater MN 18–21 year olds (N=11)	2 (18%)	3 (27%)	2 (18%)	3 (27%)	-	1 (9%)
Greater MN 22-25 year olds (N=8)	2 (25%)	3 (38%)	1 (13%)	1 (13%)	1 (13%)	-

### Most people receive sentences within the guidelines range

From 2010 through 2019, most people who were convicted of aiding and abetting felony murder received a sentence that was within the sentencing guidelines range (76%; Figure 17.).

**Figure 17. Sentencing departures for those convicted of aiding and abetting felony murder as a top-line offense, 2010-2019 (N=84)**

No sentencing departure	Downward sentencing departure	Upward sentencing departure
64 (76%)	14 (17%)	6 (7%)

The Task Force was asked to analyze data on cases where people received a downward (mitigated) durational departure. Of the 14 cases where people received mitigated sentences, 10 people were Black, 2 were Hispanic, and 2 were White. Meanwhile, 5 of the 6 people who received upward sentencing departures were Black. (We note again that Black people comprise 9.6% of the population of Minnesota.) Half of the mitigated departures (N=7; 50%) were because the person played a minor or passive role in the offense, 1 was because the weapon type was less serious or the gun was not loaded, 1 was due to a recommendation by court services, and 2 were

because the person showed remorse or accepted responsibility. There were 3 people who received mitigated sentencing departures for unknown reasons.

**Most people who plead guilty to aiding and abetting felony murder receive sentences that are lower than people who are found guilty of aiding and abetting felony murder at trial**

Across counties and regions, people who plead guilty to aiding and abetting felony murder more frequently receive sentences that are lower than people in the same region who are found guilty of aiding and abetting felony murder at trial (Figure 18).

**Figure 18. Years in prison imposed, by county and trial status, 2010-2019 (N=130)**

Region	0 – 5 years	5.01 – 10 years	10.01 – 20 years	20.01 – 30 years	30.01 – 40 years	Life
Hennepin County trial (N=10)	1 (10%)	-	4 (40%)	1 (10%)	2 (20%)	2 (20%)
Hennepin County plea (N=32)	1 (3%)	8 (25%)	14 (44%)	6 (19%)	2 (6%)	1 (3%)
Ramsey County trial (N=10)	-	1 (10%)	2 (20%)	2 (20%)	4 (40%)	1 (10%)
Ramsey Co. plea (N=23)	4 (17%)	5 (22%)	11 (48%)	2 (9%)	1 (4%)	-
Other Metro trial (N=1)	-	-	-	1 (100%)	-	-
Other Metro plea (N=20)	2 (10%)	2 (10%)	11 (55%)	2 (10%)	3 (15%)	-
Greater MN trial (N=9)	2 (22%)	1 (11%)	1 (11%)	3 (33%)	2 (22%)	-
Greater MN plea (N=25)	8 (32%)	5 (20%)	7 (28%)	2 (8%)	2 (8%)	1 (4%)

*Comparing co-defendants*

Wilder Research staff reviewed the charges, convictions, and sentences received by cohorts of actors where at least one person was convicted of aiding and abetting felony murder as a top-line offense from 2010 through 2019. Two noteworthy patterns emerged.

**Most instances where accomplices are punished as or more severely than the principal actor occurred in Hennepin County**

From 2010 through 2019, four people who were convicted of aiding and abetting felony murder as a top-line offense received sentences that were longer than the people principally responsible for the homicidal acts; one

person received the same sentence as the person principally responsible. Of these five people, three are Black males, one is a Black female, and one is a Hispanic female. Of these five people, four were convicted and sentenced in Hennepin County; one was convicted and sentenced in Scott County.

In one Hennepin County case, two Black men were convicted of aiding and abetting felony murder as the most serious charge, and both were sentenced to life in prison. According to the complaint, another person shot and killed the victim, and a review of court records indicate that the killer pled guilty and received a sentence of 20 years in prison.

In another case, a Hispanic female in Hennepin County was convicted of aiding and abetting felony murder and was not present when the victim was killed. Both this person and the person who killed the victim received a sentence of eight years in prison.

In another case, a Black female was sentenced in Hennepin County to spend the rest of their life in prison for aiding and abetting felony murder; court documents indicate that they were a mile away from the scene when another shot and killed the victim. The killer was convicted of murder and received a sentence of 30 years.

Finally, a Black man was prosecuted in Scott County, and convicted of aiding and abetting felony murder as the most serious offense. They were sentenced to life in prison. A review of case documents indicates this person helped plan the burglary and threatened the victim, and was also outside the building when another person shot and killed the victim. The killer was convicted of murder and received a sentence of 55 years in prison.

**There are more cohorts of a single person charged in Hennepin County than any other type of cohort across the state**

From 2010 through 2019, there were 86 cases where a person was convicted of aiding and abetting felony murder as a top-line offense. Due to the nature of aiding and abetting liability, a conviction for aiding and abetting felony murder is a strong indicator that the person so convicted was acting with at least one other person. Wilder Research staff analyzed the frequency with which other people faced criminal charges arising from the course of conduct leading to the aiding and abetting felony murder conviction. Eleven people convicted of aiding and abetting felony murder as a top-line offense were convicted in Hennepin County cases where no other person was charged with a crime. This was the most frequent type of cohort charged. The next most frequent type of cohort charged was also in Hennepin County; there, there were seven cohorts of two people where at least one person was convicted of aiding and abetting felony murder as a top-line offense (Figure 19).

It is unclear from the data why, where one person is convicted of aiding and abetting felony murder, there would be no co-defendants facing charges of any type.

**Figure 19. Number of people in cohorts, by region**

County	1 person	2 people	3 people	4 people	5 people	6 people	Unknown
Hennepin	11	7	3	1	-	1	-
Ramsey	2	1	2	2	1	-	1
Other metro	1	6	4	2	-	-	-
Greater MN	2	5	3	-	-	-	-

## Comparing Minnesota’s aiding and abetting felony murder doctrine to other states

The Task Force was required to review relevant state statutes, and state and federal court decisions, in order to compare Minnesota’s aiding and abetting felony murder doctrine to doctrines in other jurisdictions. The Task Force convened a Statute and Case Law Subcommittee to advance this work, and this subcommittee researched statutes and case law from all 50 states in order to understand their aiding and abetting felony murder doctrines. Here, we present findings from this review. For a summary of the subcommittee’s methods, see Appendix A. For a table summarizing aiding and abetting felony murder doctrines in the 50 states, and presenting relevant statutes and case law, see Appendix D.

### Limitations

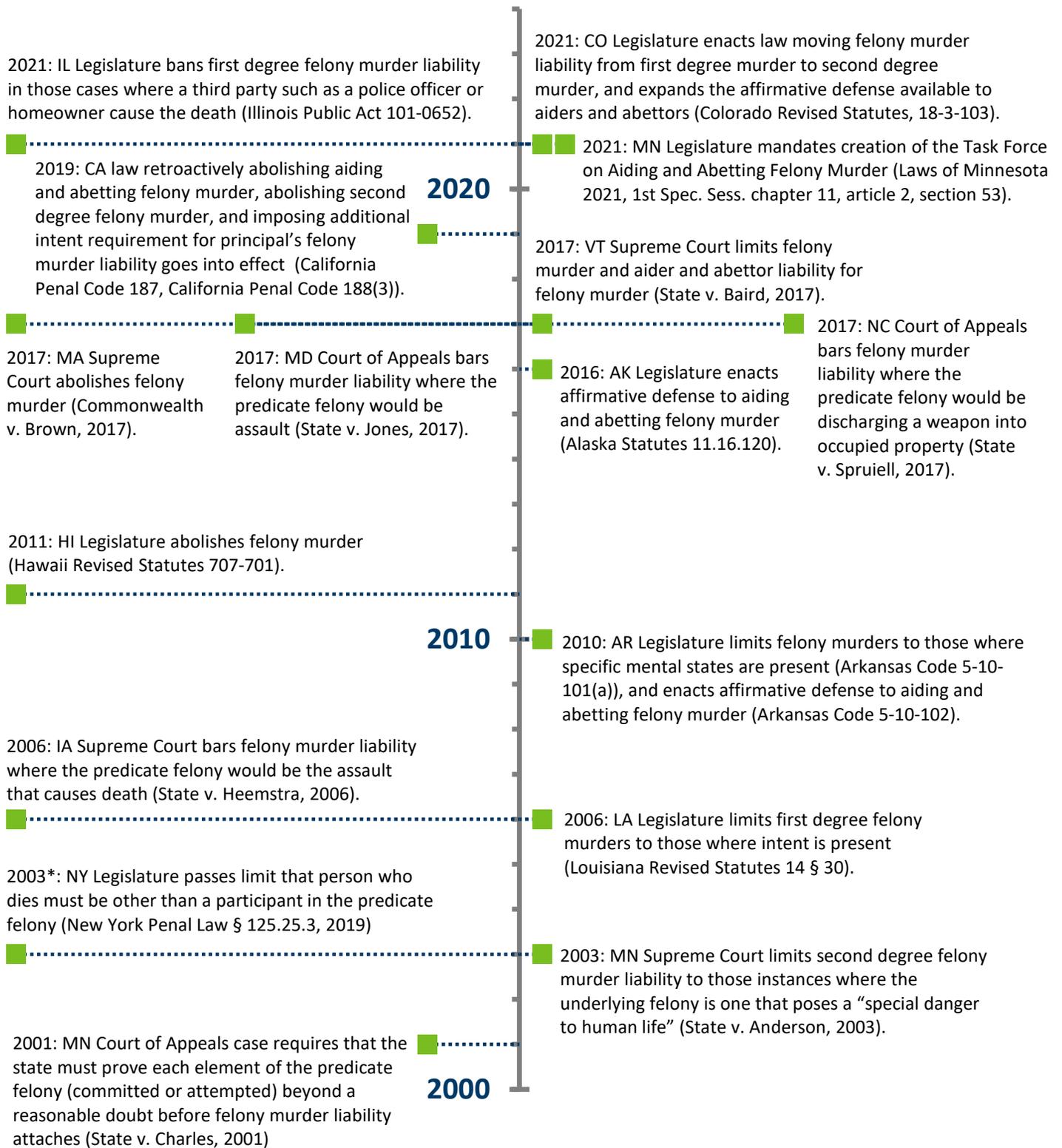
In undertaking the analysis of statutes and case law limits to aiding and abetting felony murder liability across the 50 states, the Task Force prioritized collecting, analyzing, and reporting on statutory limits to this liability. This was the top priority given the legislative audience for this report. During this search, the Task Force also found key case law limits to aiding and abetting felony murder liability, and we present these cases below. However, due to time constraints, the Task Force was not able to undertake an exhaustive review of all relevant case law for states other than Minnesota. There may be case law limiting aiding and abetting felony murder doctrines in the other 49 states. With that, a key limit to the analysis presented here is that aiding and abetting felony murder liability across the U.S. may be *more* limited than we present here, *not* more expansive.

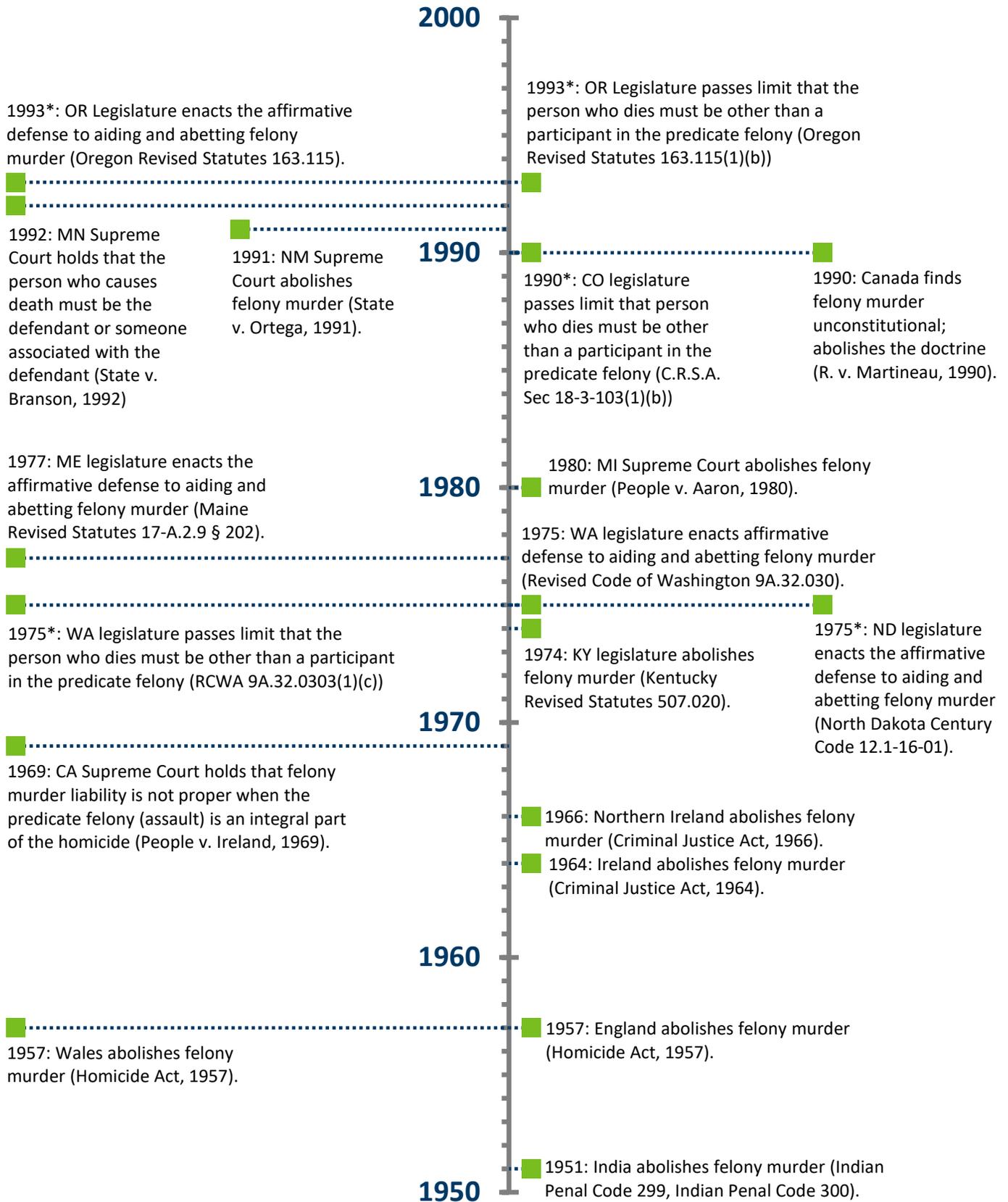
### Trends in statutes and case law are to limit, not expand, aiding and abetting felony murder liability

Subcommittee members and Wilder Research staff reviewed changes to aiding and abetting felony murder doctrines from other common law countries and throughout the 50 states. We present a timeline for legislative and judicial action that impact aiding and abetting felony murder. We note again that this timeline is not exhaustive. In addition to the limits to the case law review (see “Limitations,” above), there are recent relevant bills that have been presented in Minnesota and other states limiting aiding and abetting felony murder liability that have not yet passed. As such, there may be even more limits, and more momentum to impose further limits, than present here.

This timeline demonstrates two important facts: first, recent years have seen more and more jurisdictions impose limits on aiding and abetting felony murder liability. Second, at no point has another country or state limited aiding and abetting felony murder liability and subsequently reversed course and expanded liability (Figure 20.). Finally, the United States is alone among common law countries in maintaining felony murder liability. (We do not include years of enactment of abandonment defenses as those apply to crimes other than aiding and abetting felony murder; passage dates are not relevant to illustrate reforms specific to aiding and abetting felony murder.)

**Figure 20. Timeline of limitations imposed on aiding and abetting felony murder liability**





Note: \* means that year or a prior year; some earlier legislative history is not available on online sources such as WestLaw.

## Six states have imposed primary limits to aiding and abetting felony murder liability

A review of statutes and case law from other states shows many mechanisms to limit liability for aiding and abetting felony murder. Here, we present information about those states that have abolished or otherwise significantly limited liability for aiding and abetting felony murder. These limits either limit felony murder liability for those principally responsible for the homicidal acts (“principals”), or for aiders and abettors (also called “non-principals”), or both. For a spreadsheet comparing all 50 states’ statutory limits, with some key case law limits described, see Appendix D.

### *Five states have abolished felony murder completely*

The Kentucky and Hawaii legislatures abolished felony murder completely, meaning that intent to commit an underlying felony where a death occurs is not enough to impose liability for murder. For example, since 1974, Kentucky law has required that deaths occurring in the course of a different felony must be judged under “intentional” or “wantonness with extreme indifference” provisions of criminal law; if the person who caused death during the commission of a felony did so in a manner that was not intentional nor wanton with extreme indifference to human life, the person is not liable for murder (Kentucky Revised Statutes 507.020).

Additionally, the Massachusetts, Michigan, and New Mexico Supreme Courts effectively abolished felony murder in those states. The seminal case in Michigan is *People v. Aaron* (1980); the Court held that “it is no longer acceptable to equate the intent to commit a felony with the intent to kill, intent to do great bodily harm, or wanton and willful disregard of the likelihood that the natural tendency of a person’s behavior is to cause death or great bodily harm” (*People v. Aaron*, 1980, p. 727-8). In Michigan, the State must prove the defendant’s malice (defined as their intent to kill, do great bodily harm, or “wanton and willful disregard ... that the natural tendency of defendant’s behavior is to cause death or great bodily harm” (*People v. Aaron*, 1980, p. 728)) as an essential element of any murder; intent to commit the underlying felony where death occurs is no longer sufficient to expose someone to murder liability. The New Mexico Supreme Court held similarly in *State v. Ortega* in 1994 and Massachusetts Supreme Court held similarly in *Commonwealth v. Brown* (2017).

### *One state limited felony murder liability for non-principals*

In California, first degree felony murder liability only applies to those who are the actual killers, those who intended to kill or aided the killing, and those who acted with “reckless indifference to human life” during the killing and as a major participant in the underlying felony (California Penal Code 187). The California Legislature also abolished second degree felony murder for non-principals. Malice is an intent requirement for second degree felony murder, and the legislature declared that “malice shall not be imputed to a person based solely on his or her participation in a crime” (California Penal Code 188(3)). This law took effect January 1, 2019, and includes provisions allowing those currently incarcerated under former aiding and abetting felony murder laws to petition for resentencing under the new doctrine.

## Many states have imposed other limits to, and/or defenses against, aiding and abetting felony murder liability

*Seven states have limits imposing aiding and abetting felony murder liability only where the person who died was **not** a participant in the predicate felony*

Colorado, New Jersey, New York, Oregon, and Washington legislatures all passed laws limiting aiding and abetting felony murder liability to those instances where the person who died was *not* a participant in the predicate felony. For example, see Colorado Revised Statutes 18-3-103(1)(b). Further, cases in Kansas (*State v. Murphy*, 2001) and Utah (*State v. Norton*, 1983) impose the same limit.

*Five states require that the person causing death must be the defendant or associated with the defendant in order for aiding and abetting felony murder liability to attach*

A Minnesota Supreme Court case held that the person causing death must be the defendant or someone associated with the defendant before felony murder or aiding and abetting felony murder liability can attach (*State v. Branson*, 1992). Four other states have similar requirements. The Illinois legislature passed a law requiring that the person committing homicidal acts be a participant in the predicate felony in order for aiding and abetting felony murder liability to attach (i.e., not a police officer or potential victim killing in self-defense) (Illinois Public Act 101-0652). Cases in Idaho (*State v. Pina*, 2010), Pennsylvania (*Commonwealth v. Redline*, 1958), and West Virginia (*Flack v. Ballard*, 2017) impose the same limits.

*Ten states allow non-principals to raise an affirmative defense to aiding and abetting felony murder prosecutions*

Alaska, Arkansas, Colorado, Connecticut, Maine, New Jersey, New York, North Dakota, Oregon, and Washington allow those charged with felony murder under theories of accomplice or aiding and abetting liability to raise an affirmative defense. This defense is similar across every state except Colorado, and shifts the burden to the defendant to prove that they:

- “Did not commit the homicidal act or in any way solicit, command, induce, procure, counsel, or aid the commission thereof;
- [Were] not armed with a firearm, destructive device, dangerous weapon, or other weapon which under the circumstances indicated a readiness to inflict serious bodily injury;
- Reasonably believed that no other participant was armed with such a weapon; and
- Reasonably believed that no other participant intended to engage in conduct likely to result in death or serious bodily injury” (North Dakota Century Code 12.1-16-01).

The Colorado legislature passed a law in 2021 that expanded the affirmative defense so that defendants no longer have to prove reasonable belief that nobody else was armed (Colorado Revised Statutes 18-3-103).

People involved in the recent California reforms considered codifying a similar affirmative defense but opted to abolish felony murder liability for aiders and abettors entirely; prosecutors and defense attorneys advancing reforms were concerned that this affirmative defense would be so burdensome as to have negligible impact (K.

Chatfield, personal communication, December 17, 2021). First, the vast majority of criminal law imposes burdens of proof on the State; shifting that burden to the people charged is contrary to that bedrock principle. Additionally, introducing a “reasonable” analysis to the beliefs of people who are overwhelmingly still in the adolescent phase of brain development (see “Background,” and “Who is punished,” above) very likely introduces an adult level of analysis that people in their teens through mid-20s will not be able to meet.

*Eight states do not apply aider and abettor liability to any crime, not just felony murder, where the aider/abettor abandons the criminal acts*

Delaware, Illinois, Maryland, Minnesota, Missouri, Montana, New Hampshire, and Pennsylvania all have felony murder doctrines without statutory limits described elsewhere in this section. Likewise, none of these states have specifically limited felony murder liability for non-principal actors; aiding and abetting the underlying felony where a death occurs is sufficient to be liable for murder even where one did not commit homicidal acts.

However, these eight states all have statutes that limit aiding and abetting liability where someone abandons the criminal act. These limiting statutes apply to all criminal liability, not just to potential liability for aiding and abetting felony murder.

In Minnesota, this liability limit occurs when “a person who intentionally aids, advises, hires, counsels, or conspires with or otherwise procures another to commit a crime and thereafter abandons that purpose and makes a reasonable effort to prevent the commission of the crime prior to its commission is not liable if the crime is thereafter committed” (Minnesota Statutes 609.05(3)). This statute requires that an aider or abettor make efforts to stop the commission of the crime in order to not be held liable for it.

The Task Force heard from two participants who were charged and pled guilty to aiding and abetting felony murder with underlying facts that raise concerns about the heavy burden of this abandonment defense. These two cases arise from the same course of conduct. Two young women, ages 19 and 20, went with older men to break into the victim’s apartment and steal a bottle of pills. Once the young women had the bottle of pills, they attempted to flee from the apartment, only to find themselves locked in. One of the men forced them at gunpoint to lie face down on the kitchen floor. While held at gunpoint on the kitchen floor, another man killed the victim in another room. In the words of a Task Force member:

“If being held at gunpoint face down on the floor isn’t abandonment, what is? I’ve never seen it used to the benefit of the defendant.”

*Six states impose mental state or act requirements before felony murder liability may attach*

To be liable for felony murder of any degree:

- Arkansas statute requires one act with “extreme indifference to the value of human life” (AR Code Ann. Sec 5-10-101)
- California statute requires that a principal act with “malice aforethought” before being convicted of murder. Participation in a predicate felony is not sufficient to establish malice (California Penal Code 188 (3))
- Delaware case law requires foreseeability of death (*Williams v. State*, 2002)
- Iowa statute requires that the predicate felony be “forcible” (Iowa Code § 702.2, 2014)

- Maine’s felony murder statute only applies to those deaths that are a “reasonably foreseeable consequence” of the underlying felony (Maine Revised Statutes 17-A.2.9 § 202). This statute also enumerates a limited list of possible predicate felonies where felony murder liability could attach. Absent a death being a reasonably foreseeable consequence of a limited list of felonies, there is no felony murder liability for principals and, by extension, for aiders and abettors.
- Texas case law imposes many requirements, including that the State must prove an “act clearly dangerous to human life,” causation between that act and death, and connection between the predicate felony and the dangerous act (*Boudreaux v. State*, 2020)

*A majority of states have statutes or case law that impose limits or requirements before someone can be exposed to maximum allowed liability*

Through statute or case law, most states impose limits or requirements before a defendant can face the maximum liability for aiding and abetting felony murder. In six states, there are mental state or act requirements that must be met before someone can be liable for the most punishment possible for aiding and abetting felony murder. An Alaska case limits maximum liability to “purposeful killing” (*Gray v. State*, 1970). Louisiana statute defining first degree liability requires intent to kill or inflict great bodily harm (Louisiana Revised Statutes 14 § 30); New York’s first degree statute requires intent to kill (Sec 125.25). A Tennessee case (*State v. Gilliam*, 1995) requires “reckless” mental state for first degree liability. A case in Vermont means that the State must prove a culpable mental state, and individual culpability for each aider/abettor before first degree aiding and abetting felony murder liability can attach (*State v. Baird*).

Additionally, 31 states, including Minnesota, only allow maximum liability for aiding and abetting felony murder to attach to those predicate felonies that are part of a statutorily enumerated list. In some states, maximum liability is capital murder. In Minnesota and other states, maximum liability is first degree murder; in others, maximum liability is second degree murder. In others, the predicate felony being part of this statutorily enumerated list will be considered as an aggravating factor at sentencing.

Finally, *State v. Anderson* (2003) provides a limit to second degree felony murder liability in Minnesota. In order to be liable for second degree felony murder, the predicate felony must pose a “special danger to human life,” both in the abstract and as committed. During this Subcommittee’s review, we found many such case law definitions and smaller-scale limits. It was beyond the timeline allotted to the Task Force to source all such defining case law across the 50 states.

## Perspectives from those impacted by the current doctrine

The Task Force was required to receive input from individuals who were convicted of aiding and abetting felony murder, and to receive input from family members of people who were victims of felony murder. The Task Force convened an Engagement Subcommittee in order to advance this work.

To invite connection with victims' families and those convicted of aiding and abetting felony murder, the Engagement Subcommittee:

- Emailed 37 victim/survivor organizations soliciting testimony from victims' loved ones. These organizations included 28 community-based organizations and nine victim services offices housed within county attorney's offices in various counties
- Sent a letter to all public defense offices in Minnesota inviting them to invite impacted clients to participate in the Task Force's data collection
- Invited Minnesota Alliance on Crime (MAC) and Violence Free Minnesota to participate in the Task Force's data collection

(For more information on the work of the Engagement Subcommittee, see Appendix A.)

Responses to these invitations culminated in:

- One family member of a victim of felony murder speaking with the Executive Director of MAC about their thoughts on the current aiding and abetting felony murder doctrine
- Approximately 10 family members of victims speaking with community-based victim advocates about their thoughts on the current aiding and abetting felony murder doctrine, and those community-based victim advocates sharing summaries of these conversations with the Executive Director of MAC
- The Executive Director of MAC speaking at the December 15, 2021, Task Force meeting
- Ten people who have been convicted and sentenced for aiding and abetting felony murder ("impacted people") sharing their stories at listening sessions or a Task Force meeting. The stories of 9 of the 10 people were captured on audio and/or video recordings. Wilder Research received informed consent from all 10 impacted people to report summaries of what they shared, and then reviewed the audio and video recordings

Wilder Research staff also emailed Bobbi Holtberg, Executive Director of MAC, in order to better understand the outreach that MAC engaged in, and victim perspective shared with MAC or member organizations. Ms. Holtberg provided details about this engagement, and agreed to have a summary of those details included in this report. Here, we present summaries of those emails with MAC, and of what the Task Force heard from victims and impacted people in meetings and listening sessions. In presenting stories from impacted people, we use pseudonyms.

## Victim perspective

Perspectives of family members of victims in cases leading to aiding and abetting felony murder liability were shared with this Task Force through MAC. MAC is a coalition representing victims' rights programs from across Minnesota. 75% of member organizations are victim-witness programs within county attorney's offices, and 25% of member organizations are community-based organizations. MAC surveys members annually in the fall, including asking members to rank what they want MAC to pursue as priority issues. In 2020 and 2021, the first priority identified by MAC members was racial justice issues, which includes work to repeal current laws that have disproportionate impacts on Black people, Indigenous people, and other people of color. Ms. Holtberg reported that MAC's support for broad, retroactive reform to the current aiding and abetting felony murder doctrine falls squarely under this priority.

In working with the Engagement Subcommittee, MAC reached out to MAC member programs in the counties where someone has been charged and convicted under the current aiding and abetting felony murder doctrine. Member staff passed on Ms. Holtberg's contact information to family and friends of victims, and one family member contacted Ms. Holtberg. Further, Ms. Holtberg has spoken with community-based victim advocates on the issue, and understands that approximately 10 loved ones of victims have spoken with those community-based advocates.

### *Support for broad, retroactive reform to the current aiding and abetting felony murder doctrine*

Conversations with one family member of a victim, community-based victim advocates, and the MAC member survey responses informed Ms. Holtberg's comments at the December 15, 2021, Task Force meeting. Ms. Holtberg reported that MAC member organizations overwhelmingly support comprehensive, retroactive overhaul of Minnesota's aiding and abetting felony murder doctrine, with most organizations supporting outright repeal (applied retroactively). With this, MAC also supports retroactive abolishment or comprehensive reform that holds aiders and abettors liable only for their factual contributions and not for the homicidal acts of another.

Ms. Holtberg had conversations with one victim's loved one, and worked with community-based MAC member organizations to understand feedback that they heard from approximately 10 loved ones of other victims. She reports that almost all victims' loved ones support revisions to the current law such that aiders and abettors are liable only for their factual contributions, and not for the homicidal acts of another, and that victims' loved ones report feeling dismayed at the harsh punishment faced by aiders and abettors, and strong preference for a liability scheme that holds principal actors principally accountable. Almost all victims' loved ones also report to MAC members that they support a retroactive process for relief for those already sentenced under the current law.

## Stefana

The Task Force heard from one woman who was 23 years old at the time of the incident. She was in a romantic relationship with another and, one night, went with their partner and a friend to the victim's house. As far as Stefana knew, the intent was just to rob the victim; she was unarmed and had no idea that their partner's friend had a gun – or any other weapon. Stefana's partner's friend shot the victim while both were in a back bedroom of the victim's house; Stefana was in another room at the time.

Stefana was arrested within days. It was a nice spring day and police burst into their friend's house, guns drawn and pointed at Stefana, her friend, and her friend's elderly parent. Stefana was arrested and jailed for first degree murder. After spending three months in jail, she was offered a plea deal for 12 years in exchange for pleading guilty for aiding and abetting unintentional murder. She rejected this deal because she was not guilty of killing anyone. She never saw a deal like that again. After spending 10 months in a county jail, she pled guilty to aiding and abetting second degree felony murder. She received a sentence of nearly 25 years and was incarcerated for nearly 17 years.

Stefana has been released from incarceration for nearly two years. Of her experience being punished for a murder that she did not intend, and homicidal acts that she did not commit, Stefana says they struggled. She said, "As far as my participation: I was there in that house and there's a part that requires accountability and I'm not shying away from there. I went to all my court appearances and served every day of my sentence. So did my mom and my child. But, what I thought was supposed to happen and what did happen is hard to grapple with. The intention piece – it wasn't my intention to kill." Stefana reports that they spent the first seven or eight years of her sentence punishing herself and that it took her a long time to wake up to the fact that she deserved to be alive and have a life after prison. After this realization, she sent a request for mental health services, began therapy, and started to address traumas from her childhood and the incident.

Since being released, she reports being denied housing and struggling with feeling re-traumatized when reporting to a prospective landlord or employer that there is something that will show up on her background check. Currently, she lives with her elderly mother, is pursuing her bachelor's degree, and is employed at the same university where she is studying.

## **Gabriel**

Gabriel was 18, and the parent of a 2 year old, at the time of the incident. He grew up in generational poverty and thought that turning 18 meant that he should be providing more for his family. The incident involved an offer from his cousins to make some money stealing drugs; during the robbery, one of his cousins shot and killed someone. Gabriel had no idea that they could be punished for this murder.

Upon arrest, he spent months in the county jail, where he found out he was charged with robbery, second degree murder, and being a felon in possession of a firearm. He was also indicted for first degree murder, which carries a potential life sentence. While in the county jail, he saw his attorney three times. He received an offer to plead to aiding and abetting felony murder in exchange for a sentence recommendation of 22 years. Gabriel took this deal. At the sentencing hearing, he remember seeing their loved ones, all Black women, sitting in a row, and the White judge saying that the sentence was harsh but that "the State has to do what the State has to do."

Looking back at his 14 years in prison, Gabriel realizes now that he was functioning, but still developing, and in a state of shock for the first five or six years. Thinking back to being 18 and arriving in prison, he says "I know my brain wasn't fully developed. My 18 year old lives with me now and all I have to do is look at [them] to know that brain isn't fully developed." In his mid-20s, Gabriel realized first that "what happened when someone lost their life was wrong. And the system's response is also wrong. Both things are true." With that, Gabriel felt called to fight for better for all those impacted by incarceration, saying, "What we need to do is get out and have

a world where our dreams can come true. They weren't going to convince us that we were going to get out with no space in the world for our dreams."

Gabriel continued his work fighting for a more just legal system since his release. A few key realizations from his time incarcerated guide his work. First, he talked about realizing that there is no space in prison to express regret and that keeps people frozen in the trauma of the experiences that sent them to prison. He saw that, "The system freezes you – it doesn't directly benefit anybody for me to have sat there. The only people who benefit are the people who have jobs, the people who work the system." Second, he realized that the "public safety" rationale for keeping people incarcerated excludes many members of the public. He asked, "Isn't my family part of the public? Is the community really afraid of me? I want to be there for my [child], my siblings, my parents, and I want to contribute. Do they really feel unsafe in my presence?" Finally, he realized that his success after prison "is not a reflection that prison works. I could have gone to college and turned into this person. It means that human beings are remarkable and resilient. In Minnesota, there are people who have been in prison since they were kids and they're in their 30s now and when you talk to them you see they're remarkable. They have to be just to survive."

## Frida

Frida was charged with first degree murder for an incident that occurred when she was 16 years old. At the time, Frida was living on the street to escape abuse at home, and was romantically involved with a 24 year old. The night of the incident, Frida, her 24-year-old partner, a friend of her partner, and Frida's 18-year-old friend went to an apartment building to steal marijuana from a resident. Frida never intended for anyone to get hurt and didn't anticipate that anyone would get hurt. Frida and her 18-year-old friend were outside the building the whole time, and when their two co-defendants emerged, they said "You gotta lay low, we just killed somebody."

The police arrested Frida and took her to juvenile detention where she saw her name with "murder" next to it on the admitting whiteboard. She was held for 72 hours, talked with investigators, and released. After a week on the streets, marshals arrested her again. When she got to juvenile detention, the person at the front desk told the marshals to go to the adult jail because she was being charged as an adult. This was a decision made by the prosecutor; there was no court hearing where a judge certified that Frida, as a 16 year old, should face adult liability.

During her five months in the adult jail, Frida was locked down for 23 hours a day to keep her separate from the adults. During the one hour she was allowed out of her cell, she had to shower, make any phone calls, and watch TV. She was charged with first and second degree murder, and the first deal she was offered was to plead guilty in exchange for a sentence recommendation of 35 years. "I started bawling," Frida said. She rejected the deal and got another one some time later for 25 years. She rejected that. The next deal she was offered was for a 10-year sentence, of which she would serve eight years. Frida did the math, thinking, "I'll get out when I'm in my 20s, I can still make something of myself." She signed this deal, pleading guilty to unintentional murder.

Thinking back on her time in prison, Frida reported many negative impacts. She said it was terrifying walking into prison as a child, hard to grow up in prison, and terrifying to be released knowing she had no clue how to be an adult in community. Frida also struggled with the no-touch policy. She said, "My friends would be going through it, be breaking down crying, and I can't hug them because I'll be sent to seg [solitary confinement]." She also got into an altercation that a family member of their victim (who was incarcerated at the same prison) started with

them, which resulted in Frida being transferred to another prison many states away. During her four years imprisoned in another state, she was able to see her family just two times. Frida also struggled with the disappointment of graduating from a paralegal program while in prison, but then finding out that the program wasn't accredited.

Since being released, Frida has worked her way up from cashier in a retail chain to co-manager. When HR had to run a background check for her promotion, saw the murder conviction, and were going to fire Frida, another manager thought so highly of her that they threatened to quit if Frida was fired. Frida was promoted. She also is in an accredited school to be a paralegal, and getting straight As. Of getting into school, she said there were "no issues getting into the program. They ask if you have a felony, but I think that's more about the drug crimes [drug crimes disqualify applicants from financial aid; other crimes do not]."

## Leila

The Task Force heard from a woman currently serving a life sentence without parole for aiding and abetting premeditated murder; the incident happened in the mid-2010s. The incident happened when she drove a friend of her partner so that her partner's friend could sell drugs, and her partner's friend shot and killed someone. Leila was offered a deal to plead guilty to aiding and abetting felony murder in exchange for a sentence recommendation of 480 months if she would testify against the principal actor. She refused to testify against that person due to fearing for her safety and the safety of her family. Leila went to trial and lost; the prosecutor's sentence recommendation was much worse than the plea deal because Leila exercised her right to a trial. She said, "I know people with the same convictions that didn't get the sentence I got, and it's because I went to trial. I thought it was my right, but why would I use it if it gets me a sentence like this?"

Of being imprisoned for murder when they did not commit homicidal acts, she says, "I've thought a lot over the years about what I could have done differently and there's not much there. At the end of the day, I'm not responsible for the death. I'm responsible for the things I did, but not the death. I didn't kill, I didn't have the gun. I don't even know how to buy or use a gun."

Since being imprisoned, she's been studying law at the prison law library, and trying to help people with their cases. Leila says she's "amazed at how many people take pleas because they don't want to go to trial. They're taking pleas to stuff they didn't do because they don't want to get a death sentence like me." She also took the Law School Admission Test and is part of a new initiative where incarcerated people in Minnesota can go to law school while incarcerated. Over the course of her appeals, wardens, program directors, and many others have written letters in support of a lesser sentence for Leila.

## Jordana

The Task Force heard from a woman who was 19 years old at the time of the incident. She was part of a group of more than five people who went to the victim's house to steal drugs back. At the time, she said she was addicted, living a party lifestyle, and had no idea that anyone would get hurt, saying, "This was beyond my worst nightmares." Once Jordana and her friend had the drugs back, they tried to leave but realized they were locked in the apartment. A co-defendant who was nearly twice their age forced them to the floor at gunpoint. The co-defendant beat, shot, and killed the victim.

Jordana was initially offered a plea deal for 25 years and said she was told that she could be looking at life in prison if she lost her at trial. Jordana refused this deal and was eventually offered a deal to plead guilty to aiding and abetting second degree felony murder; she took the deal and was sentenced to 13 and a half years in prison. She's served between three and five years. The person who beat, shot, and killed the victim worked with the prosecution and received a plea deal for 20 years.

Of being incarcerated for murder when she did not commit the homicidal acts (and were traumatized by the violence they witnessed during the incident), Jordana said, "It's impacted me mentally and emotionally, and it's hard to look in the mirror. And getting here when I was so young – I don't think I understood how young I was until I walked in the doors. I felt so little and small and weak. I've never wanted my mom more." Since she's been in prison, she's started taking college classes. Jordana said she's learned a lot from the people she's met in prison, and that "most want to be able to learn new tools and step into a better life when their out."

Being in prison with the murder conviction has limited the opportunities Jordana has. She cannot participate in a sentence-reducing boot camp program, nor can she work in some of the job crews like maintenance because of being classified a "violent" offender.

## **Isidora**

The Task Force listened to another woman who is currently in prison for first degree felony murder and first degree attempted felony murder. During the incident, Isidora drove a friend and his friend to a pawn shop, thinking that she was helping a friend run errands. Isidora had no idea that either of the others was armed, nor had any idea that the others would rob nor kill anyone. While inside the pawn shop, the two co-defendants robbed the pawn shop and shot and killed a customer while that person's hands were in the air.

Isidora was not offered a plea bargain and went to trial. At trial she was traumatized watching the violence on the pawn shop security camera video. She said, "It was devastating that someone was killed." She was found guilty at trial and sentenced to consecutive sentences that mean that she will be 103 years old at the release date. Isidora said her co-defendants, who both were in the pawn shop, received sentences that are about 25% as long as Isidora's.

Of being imprisoned for murder, Isidora says, "I feel like I've been erased from life. What really hurts is these guys were ok with the way things turned out for me. And what's worse is the legal system is ok leaving me like this, leaving me sitting here."

## **Juliana**

The Task Force heard from a young woman who is currently incarcerated after being convicted of aiding and abetting second degree unintentional murder. At the time of the incident, she had just turned 20, and was using prescribed medication for mental health, as well as buying unprescribed benzodiazepines for daily use. She shared that she was using drugs to cope with trauma and violence that she survived. The night before the incident she and a friend ("Jordana," above) were at the apartment of the person who sold them benzodiazepines. The next day, Juliana realized that the drug dealer stole her prescription medication and made plans with Jordana to go with another two friends to get her prescriptions back. Juliana, Jordana, and two friends went to the dealer's

apartment the next night. Juliana didn't realize until they arrived at the parking lot that their other two friends had recruited two men, strangers to Juliana and Jordana, to help.

Juliana said that she heard a "click" in the stairwell leading up to the apartment, and was shocked to turn around and see the two men she didn't know with a gun, putting on rubber gloves. She realizes now how naïve she was to trust that two strangers were just trying to help. The victim opened his apartment door for Juliana and Jordana, who went to his bedroom and grabbed Juliana's medication. She says that there's parts of this night that she still has nightmares about. She saw one of the men pistol whip the victim, explaining, "I only know that terminology [pistol whip] because of the reports." When she and Jordana were lying prone on their stomachs, they heard the victim and the attackers in another room. They heard the victim say, "Just shoot me then," and she and Jordana yelled out in unison, "Don't shoot!" They ran for their lives when they heard the gun go off, vomiting involuntarily out of fear.

Juliana and Jordana went back to Juliana's mom's house, and spent much of the night crying together in her bedroom closet. The police arrested Juliana the next morning. She spent three months in the county jail before bailing out on the condition that she reside in a treatment center, which she did for six months. She and Jordana received plea offers that were unacceptable and were set to start a joint trial. Between jury selection and opening arguments, the prosecutor offered Juliana a final deal: plead guilty to aiding and abetting second degree unintentional murder and receive a sentence recommendation of 10 years. Juliana took the deal, and was taken to prison to start serving time, and wait for her sentencing hearing. Her sentencing hearing was the first time she heard that the recommendation from the person who completed a pre-sentence investigation was going to be 13 years in prison, not 10. She still does not know why that recommendation changed; she was sentenced to 13 years.

She came to prison the month after her 21<sup>st</sup> birthday "and was lost. I was super-scared. I'm this young girl and still think 'I just want my mom' sometimes." In the four years she's served, she's completed a year-long, voluntary, faith-based treatment program, mentored others in that program, completed 50 college credits toward a major in sociology with a criminology focus, been accepted into an honors living situation for people who are discipline-free and pass a series of interviews, volunteered as a GED tutor, and, for the last two years, worked as a reception and orientation mentor, mentoring people who are just entering prison to help them get acclimated. She is trying to use this experience "as redemption to help others. Whether it's helping people in my situation, or preventative programming to help youth so they don't end up here." There is more programming that she would like to take advantage of, but can't because of the "violent" offender classification and the length of time she still has left on her sentence.

Of her conviction, Juliana says, crying, "I realize a life was lost and I still have nightmares. I know I should have called the police to report my meds stolen, and was so naïve to trust these two strangers. And you grow up thinking about justice, and it's a struggle to hear that means you're supposed to take accountability like this. I know I didn't kill anyone, and didn't want anyone to die. How do I take accountability for something that I didn't do, and that I never wanted to happen?" Of others' convictions, she says, "It's easy to hear someone's charge and think you know. If you hear murder, they must have planned it or did it. But there's always more to the story. My case is a prime example of that."

Thinking about her co-defendants, she said that, “It’s hard to look at me only getting a couple years less than the person who actually did it. That’s a hard thought process.”

## **Fredrick**

Fredrick was 19 years old at the time of the incident. It was the middle of the day, and he was driving an acquaintance through Minneapolis. When he saw another acquaintance wave him over from the sidewalk, Fredrick did a U-turn to approach. Fredrick was absolutely shocked when his passenger pulled out a gun, shot, and killed his acquaintance on the sidewalk. He fled the scene and was on the run for about six weeks, when he got a lawyer and turned himself in.

He was the only person charged out of the incident; the shooter’s name was all over case documents, came up in trial, and was known to prosecutors, but never charged. Fredrick was offered a deal to plead guilty in exchange for a sentence recommendation of 30-40 years. He says, “30 to 40 years for something I didn’t know was going to happen? That wasn’t something to even think about.” He went to trial, was convicted, and was sentenced to life with the possibility of parole. While Fredrick admits that he was wrong for driving the car, making the U-turn, and not reporting what happened to the police, he says, “I don’t feel like I should serve life for something that I didn’t know was going to happen. It never made sense to me that they want to take my life from me when I didn’t kill anybody and honestly didn’t know this was going to happen.”

Fredrick’s first four to five years in prison was consumed with “the politics of prison: fights, and always having to be on edge and things like that.” He’s missed a lot of family events, loved ones growing up, and loved ones passing away. While he’s grown in his faith, received technical certifications, taken classes, and maintained employment, he says, “I missed a chance on a lot. I missed a chance to add something to society. I would have been a positive asset to my community.” A Task Force member asked him what advice he’d give his 19 year old self and he said, “I’d tell myself to stay on track. If I’d done that, I wouldn’t have been around people who would have been capable of doing what he did.”

Fredrick advocated for retroactive application of any changes to aiding and abetting felony murder, saying, “There are so many people in complex situations that lead to prison for long periods of time, and people like [Task Force members] and legislators never even hear these stories. One thing about looking back is opening some type of window of communication for people in my situation to make things right.”

## **Elias**

Elias was involved with a drug deal with two co-defendants in a parking lot in the summer of 2014. Elias got into a fistfight with a potential purchaser, and someone else shot the victim 2-3 times. He said the whole incident happened in a chaotic few seconds. He went first to a county jail where he was interrogated for two hours. He said he felt berated with questions he couldn’t answer. Some because he didn’t know the answer, and some because, if he answered, “There would be consequences outside the judicial system. Court would be held in the streets.”

He was indicted as the shooter and offered a deal to plead guilty and receive a sentence recommendation of 300 months. If he didn’t take the deal, Elias said he was threatened with life in prison. Elias ended up taking a

deal for around 10 years in prison. He says one co-defendant, who is also Black, took a similar deal, and the third co-defendant, who is White, served around 1 year. He said he originally felt like he was a dog in a kennel, and struggled with confusion, depression, and not knowing how to tell his family and loved ones what he was facing.

He was gang-affiliated before being convicted, and so felt pressure joining up with a gang inside the Department of Corrections. He reports fighting and being disrespectful with staff because of this involvement, and not knowing what he should do with his time inside. “I tried to go to school, to get a job here. I’m on my 8<sup>th</sup> year here and just now starting to figure it out. It took me a long time just to learn how to make eye contact, to have conversations, to save money, to slow down my thinking – to learn the skills I should have had out there,” he says. Elias has been denied parenting classes and anger management classes, partly because of having too much time left on his sentence.

He’s working on treatment and getting work release, and getting closer to his son and co-parent. Of his circumstance, Elias says, “We need a law where the person is charged and sentenced for their own involvement and not the involvement of another.”

## Ray

The Task Force heard from Ray, who was 19 at the time of the incident. He got involved because he was looking for a new drug dealer; the person he found wanted Ray to rob someone with him to prove that he was legit. They chose the garage of someone who had been harassing Ray’s girlfriend. The night of the robbery, Ray’s co-defendant showed up with two people Ray had never met before. They all went to a bar, then drove to the victim’s garage in the middle of the night. Ray got into the driver’s seat and the other three people went into the garage. Ray reports waiting about a minute, hearing a gunshot, and immediately thinking, “I’m going to prison.” He says, “We all figured I’d end up [in prison] for drugs, not this.”

When Ray was arrested, he says the first question he was asked was, “Why did you kill him?” and he said he didn’t. He provided the gun, and drove, thinking that it was a simple robbery. “It was three on one. There should have been no reason for shots.” He was offered a plea deal for 150 months if he pled guilty to aiding and abetting second degree unintentional murder, and told that if he didn’t take it, the prosecution would convene a grand jury to return an indictment for aiding and abetting first degree intentional murder. He took the deal. He says, “I own my part completely, but I don’t feel like – with no intention, I shouldn’t have received aiding and abetting murder. At most, the actual intent of the robbery.”

Ray says that he arrived at prison and thought, “Holy crap, this place is huge,” and was surprised at how rude the staff were. He says he withdrew during the beginning of his sentence. “It was easier to erase myself. Everybody was moving forward and I’m stuck in time.” While in prison, Ray has earned his GED, took some college courses, and maintained work. He’s served on restorative justice councils, raising funds to donate to charities. He also worked on an initiative to erase the school-to-prison pipeline. He has been unable to get the substance use treatment that would treat the root cause of his case the entire time he’s been in prison. Ray has been told that he has too much time left on his sentence, or is too high risk or low priority, to receive substance use treatment.

He is less than a month from release. Of his own volition, he will be released to in-patient substance use treatment. He has plans for volunteer work, paid work, higher education, and a career serving others. He says that he thinks getting housing with a murder conviction will be the hardest part, “along with just being accepted.”

## **Denisa**

Denisa spoke at the September 15, 2021, Task Force meeting and signed an informed consent form giving Wilder Research staff permission to summarize her story in this report. Denisa said that she was originally charged with aiding and abetting aggravated robbery with a firearm due to an incident where she helped a robbery but was outside the building where another individual killed someone. She was threatened with first degree murder charges and a 30-year sentence, and eventually pled to aiding and abetting second degree felony murder and served 10 years of a 15 year sentence. She was 18 years old at the time of conviction. Denisa struggled while in prison due to her youth and feeling hopeless, and eventually connected with programming and positive people also experiencing incarceration for similar issues. She’s been released for three years, is working, and struggling to find meaningful employment and stable housing due to having a conviction for murder.

## **Public comment at a Task Force meeting**

Three people spoke at the Task Force’s meeting on December 15, 2021. One person is a community member and friend of someone currently experiencing incarceration for aiding and abetting felony murder; this community member spoke in favor of making retroactive any reforms to Minnesota’s aiding and abetting felony murder doctrine. Another member of the public was a former corrections officer who spoke in favor of large-scale changes so that people who are not factually culpable are not incarcerated for murder. Finally, Bobbi Holtberg, Executive Director of the Minnesota Alliance on Crime, asked the Task Force to consider her organization’s position. Find a summary of her comments above (“Victim perspective”).

## Impacts of Minnesota’s aiding and abetting felony murder statutes and practices

This Task Force was required to analyze any benefits and unintended consequences of Minnesota statutes and practices related to the charging, convicting, and sentencing of people for aiding and abetting felony murder. This analysis was required to include whether current statutes and practices promote public safety and properly punish people for their role in an offense. Task Force members discussed their analysis over the course of many Task Force and subcommittee meetings, which culminated in the following finding:

### **The adverse consequences of the current aiding and abetting felony murder doctrine outweigh its benefits.**

In coming to this conclusion, the Task Force considered many concerns: the disparate impact of this doctrine across place, race, and age; perspectives of victims and impacted people; concerns in the charging, convicting, and sentencing; the tendency for this doctrine to over-punish people for their acts; and public safety concerns.

#### *Disparate impacts*

Task Force members analyzed data about who is charged, convicted, and punished for aiding and abetting felony murder, and noted disparities in who is impacted across races, places, and ages. According to U.S. Census data, fewer than one in 10 Minnesotans is Black (6.9%; Minnesota Compass, 2020). From 2010 through 2019, nearly 5 in 10 people charged with aiding and abetting felony murder in Minnesota was Black (48%; Figure 5., above). More than 6 in 10 people convicted of aiding and abetting felony murder in Minnesota were Black (62%; Figure 9.). Twenty-two percent of people in Minnesota live in Hennepin County (Minnesota Compass, 2020); 32% of aiding and abetting felony murder charges in Minnesota were levied in Hennepin County (Figure 3., above); 42% of people convicted of aiding and abetting felony murder as a top-line offense were convicted in Hennepin County (Figure 8., above). 18 through 25 year olds comprise 9% of Minnesota’s population but 48% of people charged with aiding and abetting felony murder in Minnesota.

Black people, people from Hennepin County, and young people are largely overrepresented among the population of people charged and convicted under the current doctrine, raising concerns that the broad discretion allowed by the doctrine leads to unequal punishment based on race, place, or age.

#### *Perspectives of victims and impacted people*

Task Force members considered perspectives shared by victims’ loved ones through MAC, well as those charged and punished under the current doctrine. The Task Force heard broad consensus from victims through MAC, and from impacted people, that the current aiding and abetting felony murder doctrine leads to over-punishing aiders and abettors. The Task Force also heard broad consensus that victims, victims’ advocates across the state, and impacted people prefer broad reforms to limit aiding and abetting felony murder liability such that aiders and abettors are not culpable for the homicidal acts of another. Finally, the Task Force also heard broad consensus that victims, victims’ advocates, and impacted people prefer that an avenue be made available for retroactive relief.

### *Charging concerns*

Task Force members preferred that charges reflect an actor's individual intent and factual culpability, which this doctrine does not require. Task Force members were concerned with the large geographic discrepancies where charges are brought under this doctrine and were concerned that people who behave the same are charged differently depending on the county where the acts occurred. Task Force members also saw alternative criminal charges that better reflect people's behavior, including charges for being an accessory after the fact, or aiding and abetting the predicate felony.

### *Conviction concerns*

A primary conviction concern is that principal actors may not be convicted of appropriate charges, and aiders and abettors may be convicted of charges that are more serious than their factual conduct. Task Force members discussed that principal actors will have more knowledge of what occurred during the course of action, as well as more certainty than aiders and abettors that they may be facing liability for murder, so will have more motivation to cut a deal with prosecutors. The Task Force heard testimony of one case where a principal actor had a deal with the prosecution to testify against an aider and abettor. For their testimony, prosecutors offered to reduce charges so much that this person, despite a long criminal history and factual culpability, would only be subject to probation. The principal actor followed through and testified against an aider and abettor, who was sentenced to many years in prison. Immediately following the principal actor's hearing where they pleaded to a lesser offense and received probation, the principal actor walked out of the courthouse and committed another murder. Task Force members also discussed other cases where principal actors received plea deals to further the murder convictions of the aiders and abettors, which the Task Force saw as opposite to their preference that principal actors be held principally liable.

### *Sentencing concerns*

A primary sentencing concern is that the doctrine tends to over-punish people, and this is discussed in more detail below. An additional concern is that people punished for aiding and abetting felony murder have to go through the entire court process before they are able to argue for mitigated durational departures based on limited culpability. One Task Force member explained further:

"At the back end, once you're convicted of aiding and abetting felony murder, people can argue for mitigated sentences. But why aren't we taking that into consideration at the front end? Why wait until the conviction is there to say, 'Well, you really didn't do much.' Why doesn't that limited culpability play into the charges that can be brought?"

### *Proper punishment concerns*

In considering the punitive impact of Minnesota's aiding and abetting felony murder doctrine, the Task Force found that the current doctrine fails to properly punish people for their role in offenses, and tends to over-punish people for their role. The current doctrine allows for over-punishment because aiders and abettors of felony murder are not as culpable as those who intentionally kill. Aiders and abettors of felony murder are two large steps removed from this culpability. First, felony murder requires no intent to kill, merely that a death

occur during a felony. Second, aiding and abetting liability means that aiders and abettors are liable for another's acts. In the case of aiding and abetting felony murder, people are punished for murder where they neither intended for anyone to die, nor committed homicidal acts.

The current doctrine also leads to actual over-punishment; there are cases where people convicted of aiding and abetting felony murder receive longer sentences than the principal actors in their case (see "Some accomplices are punished more severely than the principal actor," above). The Task Force also considered testimony from people impacted by the current doctrine, hearing that people convicted under the current doctrine did not intend harm, were not factually responsible for homicidal acts, and also were traumatized by the death that occurred.

### *Public safety concerns*

The Task Force considered the ways in which Minnesota's current doctrine is incompatible with punishment schemes that deter crime (see "Background," above), and the research consensus that incarceration, compared to noncustodial alternatives, does not reduce the risk of re-offense (see "Background," above). Discussing this research and the Task Force's concerns with charges, convictions, and sentences under the current doctrine, the Task Force found that the current doctrine does not effectively prevent nor intervene in harm. Task Force members concluded that public safety would *not* be harmed by reforms limiting aider and abettor liability. The Task Force in fact believes that public safety would be enhanced by the contemplated reforms.

The Task Force considered that incarceration can serve to incapacitate people such that they are not capable of harming the broader public while incarcerated. This rationale for incarceration would be at its most persuasive the more dangerous someone has proved themselves to be, either through past actions or the current conduct in question. The Task Force considered data showing that most people convicted of aiding and abetting felony murder have zero past history of offenses against a person (see "Most convictions are of people with no prior convictions for offenses against a person," above). The Task Force also considered testimony from impacted people who did not cause death nor intend for anyone to die, and the perspective of victims who prefer that aiders and abettors not be punished for the homicidal acts of another. With this, the Task Force finds that sentences for the predicate felony may be more proportionate with the need to incapacitate those convicted of aiding and abetting felony murder.

Additionally, the Task Force found that the doctrine's tendency to over-punish has adverse impacts on people and public safety. First, people convicted under aiding and abetting felony murder are denied rehabilitation opportunities while in DOC facilities, including skill-building work assignments and boot camps. If they were convicted for the predicate felonies, their security level could be low enough that they would be eligible for a greater array of rehabilitative services and programming. Second, the Task Force considered testimony and experiences that people tend to achieve greater rehabilitation while in prison when they perceive that their sentence is fair. One Task Force member said, "[People are negatively impacted] by these antiquated, ineffective laws. If we change it to be fair in application at the front end, when they get out after doing the services and participating in what the DOC can provide, we're going to have better citizens versus those who are pretty angry when they're locked away." Third, the Task Force considered testimony and evidence of the long of sentences for those convicted of aiding and abetting felony murder, versus those sentences that they would receive for participating in the underlying felony. One Task Force member said, "The length of incarceration is so long that

the reality is that they're not going to be able to readjust and come home and be good neighbors." Finally, Task Force members considered the impact of the collateral consequences for murder on a released person's employment and housing prospects, and also discussed the adverse impacts that long periods of incarceration have on children and family members of those incarcerated.

### *Resource concerns*

The Task Force also considered the impact on limited tax dollars of incarcerating people for murder when they did not cause death, or intend for anyone to die. Given the concerns listed above, particularly the Task Force's consensus that the current doctrine tends to over-punish people and is detrimental to public safety, the Task Force is additionally concerned that overly long periods of incarceration are an unnecessary and counter-productive use of limited tax resources.

## The Task Force's recommendations

Here, we present the recommendations the Task Force advances in order to address its finding that the adverse consequences of the current aiding and abetting felony murder doctrine outweigh its benefits. We noted that the recommendations contained in this report enjoy unanimous support among Task Force members, but do not necessarily reflect the views of their appointing agencies.

The Task Force unanimously recommends that the Minnesota Legislature consider:

- 1. Revising relevant statutes such that those who aid and abet felonies *are not* liable for murder where the aider and abettor did not: a. kill another; b. otherwise contribute to the homicidal acts of another while intending to kill; nor, c. act with reckless disregard for human life as a major participant in a felony where a human died.**

This change would prohibit a participant in the perpetration or attempted perpetration of a felony where a death occurs from being liable for murder, unless that person was the actual killer, or that person was not the actual killer but, with intent to kill, aided, abetted, counseled, commanded, induced, solicited, requested, or assisted the actual killer, or that person was a major participant in the underlying felony and acted with reckless disregard for human life. In short, this Task Force recommends limiting Minnesota's broad aiding and abetting felony murder liability doctrine.

This recommendation would address all of this Task Force's concerns, spelled out in the "Impacts" section, above. It addresses:

- a. Disparities.** The broad discretion allowed under the current doctrine leads to racial disparities, geographic disparities, and age disparities in charges, convictions, and punishment. Limiting liability in this way would appropriately narrow this discretion and disallow such a wide range of disparities.
- b. Concerns from victims and impacted people.** This recommendation is advanced by MAC and the impacted people heard by the Task Force.
- c. Charging concerns.** The current doctrine allows for charges that do not reflect an actor's individualized intent nor factual culpability, raising concerns of fairness and foreseeability (see "Background"). This broad charging discretion also leads to the disparities listed above. Implementing this recommendation would address both of these issues.
- d. Conviction concerns.** The Task Force found cases in Judicial Branch and Sentencing Guidelines Commission data, and heard testimony from impacted individuals, where the person who killed was convicted of lesser offenses than aiders and abettors who lacked intent to kill and never committed homicidal acts. Implementation of this recommendation would allow for convictions commensurate only with a person's individual culpability, rather than conviction based on the intent and acts of another.

- e. **Sentencing concerns.** The Task Force also found cases in Judicial Branch and Sentencing Guidelines Commission data, and heard testimony from impacted people, where the person who killed was sentenced to similar or less punishment than aiders and abettors who lacked intent to kill and never committed homicidal acts. Implementation of this recommendation would allow for punishment commensurate with a person’s individual culpability, rather than punishment for the intent and acts of another.
- f. **Proper punishment.** The Task Force found that the current aiding and abetting felony murder doctrine fails to appropriately punish people for their role in offenses, and tends to over-punish people relative to their individual culpability (see “Impacts,” above). Implementation of this recommendation would address this harm. Further, as this Task Force does not make recommendations beyond aiding and abetting felony murder (see “Recommendation 4,” below), implementation of these recommendations leaves intact a myriad other criminal statutes that allow for aider and abettor liability commensurate with an aider and abettor’s mental state and factual contributions to harm.
- g. **Public safety.** The current doctrine is incompatible with punishment schemes that deter crime (see “Background,” above), and the research consensus that incarceration, compared to noncustodial alternatives, does not reduce the risk of re-offense (see “Background,” above). This means that incarcerating people for murder when they are not factually responsible for it, nor ever intended for people to die, is in opposition to what effectively prevents and intervenes in harm. Implementation of this recommendation would eliminate a doctrine that does not contribute to public safety.
- h. **Resource concerns.** Implementation of this recommendation would lead to shorter incarceration sentences, commensurate with the limited culpability of future defendants, and save limited resources.

Additional benefits to implementing this recommendation include:

- i. **Eliminating a criminal liability anomaly.** The current aiding and abetting felony murder doctrine is unique in that it imposes liability regardless of the actor’s intent *and* factual responsibility. Limiting criminal liability for murder to those who meet mental state and factual culpability requirements would be consistent with the vast majority of criminal liability statutes.
- j. **Consistency with the current context.** State legislatures and courts continue to limit liability for aiding and abetting felony murder (see “Trends in statutes and case law are to limit, not expand, aiding and abetting felony murder liability,” above). Specifically, this recommendation advances concepts found in recent reforms to aiding and abetting felony murder liability in California (California Penal Code 187; California Penal Code 188(3)). (Though, unlike these recent reforms in California, the Task Force recommends no changes to felony murder liability more generally. See “Recommendation 4,” below.)

The Task Force presents relevant sections of the California Penal Code in Appendix E. This legislation contains language that could provide a framework for implementing this recommendation.

## **2. Revising relevant statutes such that people previously convicted of aiding and abetting felony murder may petition the court for relief.**

The Task Force recommends changes such that those convicted of aiding and abetting felony murder, whether at trial or through acceptance of a plea offer, may, in limited circumstances, petition the court for relief. In making this recommendation, the Task Force considered Minnesota Statute 645.21, which applies a presumption against retroactive applicability of new laws. The Task Force recommends that the legislature include clear language in any reform legislation to allow for limited retroactive relief.

This recommendation would address all of this Task Force’s concerns spelled out in the “Impacts” section, above. It addresses:

- a. Disparities.** The current doctrine contributes to geographic, race, and age disparities that have ongoing impacts. Allowing impacted people to petition for relief would create a mechanism to correct these disparities.
- b. Concerns from victims and impacted people.** The Task Force heard testimony that county attorney victim witness programs, community-based victim advocates, and victim’s families prefer retroactive relief. The Task Force also heard testimony from people convicted of and sentenced for aiding and abetting felony murder who advocated for being able to petition the court for resentencing. This recommendation addresses concerns from both victims and impacted people.
- c. Conviction concerns.** The Task Force found cases and heard testimony from individuals who are convicted of offenses based on another’s intent and actions. Allowing retroactive relief would address these adverse impacts.
- d. Sentencing concerns.** The Task Force found cases and heard testimony from individuals who are punished based on another’s intent and actions. Allowing retroactive relief would address this adverse impact.
- e. Proper punishment.** Allowing retroactive relief is the only way to ensure that those currently punished for another’s intents and acts have an avenue to correct this wrong, and receive a sentence that properly punishes them according to their own culpability.
- f. Public safety.** The Task Force found that the current aiding and abetting felony murder doctrine does *not* advance public safety. As over-punishment leads to rehabilitation challenges, and incarceration does worse than alternatives to restore safety, public safety is advanced where people are only punished according to their own culpability.
- g. Resource concerns.** In recommending opening this avenue for relief for those previously convicted of aiding and abetting felony murder, this Task Force considered appropriate use of public funds. Currently, there are a relatively small number of people serving sentences for aiding and abetting felony murder, foreclosing concerns that courts would be flooded with petitions for relief. Further, the most recent estimates from the Department of Corrections are that it costs \$49,884.55 to incarcerate one person for

a year (\$136.67 per diem x 365 days a year; Minnesota Department of Corrections, 2021, p. 34). Where petitioners' relief includes shorter sentences commensurate with their own culpability, not the culpability of another, costs of incarcerating that individual will be reduced.

The Task Force presents relevant sections of the California Penal Code in Appendix E. This legislation contains language that could provide a framework for implementing this recommendation.

### **3. Implementing reforms beyond mere adoption of an affirmative defense for aiding and abetting felony murder.**

The Task Force considered statutes spelling out affirmative defenses for aiding and abetting felony murder, and unanimously recommends greater reforms to the current doctrine (Recommendations 1. and 2., above). The Task Force recommends against mere adoption of an affirmative defense for aiding and abetting felony murder liability on principle: because shifting the burden of proof to a defendant to prove their innocence is in opposition to the vast majority of criminal law. Further, the Task Force recommends against mere adoption of an affirmative defense for aiding and abetting felony murder liability because of a practical concern that such a defense, absent other reforms listed above, would be so burdensome as to not address the Task Force's myriad concerns. For an explanation of the burdens, see "Ten states allow non-principals..." above; for an explanation of Task Force concerns, see "Impacts," above.

### **4. Expanding the Task Force's mandate and timeline to undertake similar work as it applies to Minnesota's felony murder doctrine, and/or aiding and abetting liability generally.**

The Task Force's work was narrowly focused on its mandate: to understand and make recommendations around how Minnesota's felony murder and aiding and abetting schemes intersect to impose aiding and abetting felony murder liability on aiders and abettors. The Task Force did not undertake systemic reviews of felony murder or aiding and abetting liability generally, and the Task Force does not make recommendations that apply to those doctrines more generally. However, the Task Force is aware of data showing disparate impacts of Minnesota's felony murder doctrine more broadly (see "Background," above), and heard testimony from Leila, who is impacted by aiding and abetting statutes. Task Force members also have outside expertise and experiences with felony murder and aiding and abetting liability beyond how those schemes intersect to impose aiding and abetting felony murder liability on aiders and abettors. With that, the Task Force recommends that the Minnesota Legislature consider expanding the Task Force's mandate and timeline to undertake similar work as it applies to Minnesota's felony murder doctrine, and Minnesota's aiding and abetting liability scheme.

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## Appendix A. Summary of the Task Force's Work

### Full Task Force

The Task Force was created by legislative mandate during the 2021 legislative session. The Task Force met for the first time on Friday, July 30, 2021, and held meetings at least once a month after that. All Task Force meetings were open to the public and held virtually. [Meeting minutes, meeting recordings, and presentations to the Task Force are available on the Department of Corrections website](https://mn.gov/doc/about/legislative-info/aiding-abetting/) (<https://mn.gov/doc/about/legislative-info/aiding-abetting/>).

Here, we summarize the issues considered at each meeting of the full Task Force.

#### *Task Force meeting 1: July 30, 2021*

At this initial meeting, the Task Force heard a presentation from the Minnesota Department of Corrections about the Task Force's mandate and scope of work. Five members of the public were also present at this virtual meeting. The Task Force discussed creating subcommittees to achieve the mandate. The Task Force also heard remarks from Minnesota Representative Pinto and Senator Duckworth about the interests of the legislature in the Task Force's work, particularly in understanding the aiding and abetting felony murder doctrine's impact on victims and people who did not commit homicidal acts.

Find [July 30 meeting minutes](https://mn.gov/doc/assets/FMLR%20Task%20Force%20Meeting%20Minutes%207.30.21_tcm1089-499675.pdf)

([https://mn.gov/doc/assets/FMLR%20Task%20Force%20Meeting%20Minutes%207.30.21\\_tcm1089-499675.pdf](https://mn.gov/doc/assets/FMLR%20Task%20Force%20Meeting%20Minutes%207.30.21_tcm1089-499675.pdf))

and [slides of the Department of Corrections' presentation to the Task Force](https://mn.gov/doc/assets/FMLR%20Task%20Force%20Meeting%20%28Legislative%20Overview%29%207-30-21%20FINAL_tcm1089-499674.pdf)

([https://mn.gov/doc/assets/FMLR%20Task%20Force%20Meeting%20%28Legislative%20Overview%29%207-30-21%20FINAL\\_tcm1089-499674.pdf](https://mn.gov/doc/assets/FMLR%20Task%20Force%20Meeting%20%28Legislative%20Overview%29%207-30-21%20FINAL_tcm1089-499674.pdf)).

#### *Task Force meeting 2: August 18, 2021*

At this meeting, Task Force members and nine members of the public who opened the meeting link heard presentations from professors from University of Minnesota Law School, University of St. Thomas School of Law, and a researcher with the Minnesota Department of Corrections. A professor from the University of Minnesota Law School provided information about the legal principles underlying murder and felony murder doctrines. The Task Force had questions about the jurisdictions that have abandoned aiding and abetting felony murder doctrine, the jurisdictions where affirmative defenses are available, and how Minnesota's sentencing guidelines may be changed to punish accomplices differently from principals. A professor from the University of St. Thomas School of Law presented about accomplice liability principles and how they interact with felony murder principles. The professor presented on how aiding and abetting felony murder fails to deter people from crime (people need to know about the potential penalty and frequently do not with this doctrine, and deterrence assumes a rational cost-benefit analysis which most do not undertake) and fails to advance legitimate retributive purposes (there is a lesser need to punish accomplices who did not commit homicidal acts). The Task Force had questions about prosecutorial practices across the state and what data may help answer the Task Force's questions. Finally, the Task Force heard a presentation from the Minnesota Department of Corrections about who is currently serving time for felony murder in Minnesota. Data from this presentation are summarized above (see "Background: The scope of the issue in Minnesota").

Find [August 18 meeting minutes](https://mn.gov/doc/assets/AA-FM%20Task%20Force%20Meeting%20Minutes%2018.21_tcm1089-505318.pdf) (https://mn.gov/doc/assets/AA-FM%20Task%20Force%20Meeting%20Minutes%2018.21\_tcm1089-505318.pdf) and [slides of the Department of Corrections' presentation](https://mn.gov/doc/assets/Aiding%20and%20Abetting%20Felony%20Murder%20Task%20Force%20-%20Data%20Overview%20-%20August%202021_tcm1089-494595.pdf) (https://mn.gov/doc/assets/Aiding%20and%20Abetting%20Felony%20Murder%20Task%20Force%20-%20Data%20Overview%20-%20August%202021\_tcm1089-494595.pdf) to the Task Force.

#### *Task Force meeting 3: September 15, 2021*

The September meeting included Task Force members and guest presenters. The Task Force heard updates from the three subcommittees as well as a presentation from the Senior Director of Legislation and Policy at the San Francisco District Attorney's Office and testimony from someone formerly incarcerated for aiding and abetting felony murder. The Task Force learned that California amended their aiding and abetting felony murder effective January 1, 2019. This reform built on a California Senate resolution finding that aiding and abetting felony murder should be reformed so that people are punished according to their own culpability, and included a retroactive resentencing pathway. The California legislature did *not* implement a reform that merely adds affirmative defenses to the doctrine as both prosecutors and defense attorneys were in agreement that such a reform would not have a large impact.

Find [September 15 meeting minutes](https://mn.gov/doc/assets/AA-FM%20Task%20Force%20Meeting%20Minutes%202019.15.21_tcm1089-505319.pdf) (https://mn.gov/doc/assets/AA-FM%20Task%20Force%20Meeting%20Minutes%202019.15.21\_tcm1089-505319.pdf).

#### *Task Force meeting 4: October 20, 2021*

The October meeting included Task Force members and staff from the Department of Corrections. The Task Force heard updates from the three subcommittees, an update on the process to hire a consultant to assist with the report, and decided to request an extension to the report deadline such that the report would be due February 1, 2022. The Task Force also heard a presentation from two Task Force members, both prosecutors. Dakota County Attorney Kathy Keena presented the broad discretion allowed by Minnesota Statutes, section 609.05 subd. 1 and 2. She also presented alternative statutes that impose criminal liability for aiding and abetting criminal conduct, including aiding an offender after the fact. Blue Earth County Attorney Pat McDermott presented on prosecutorial obligations to make decisions without fear, passion, or prejudice, as well as the pressure that some face from the public and victims' families. The Task Force discussed several difficulties that arise under this doctrine, including that it can be difficult to expect people who did not kill to accept responsibility for another's death, and that pressure from victims' families may be in opposition to the factual culpability of an aider and abettor, or public safety needs to properly punishment. Finally, the Task Force discussed preliminary recommendations, with all members present in favor of the idea that reform is necessary.

Find [October 20 meeting minutes](https://mn.gov/doc/assets/AA-FM%20Task%20Force%20Meeting%20Minutes%202010.20.21_tcm1089-514826.pdf) (https://mn.gov/doc/assets/AA-FM%20Task%20Force%20Meeting%20Minutes%202010.20.21\_tcm1089-514826.pdf) and [recording](https://minnesota.webex.com/recordingservice/sites/minnesota/recording/a4b9487813e4103abf7b0050568f73ab/playback) (https://minnesota.webex.com/recordingservice/sites/minnesota/recording/a4b9487813e4103abf7b0050568f73ab/playback).

#### *Task Force meeting 5: November 17, 2021*

Twelve of the 12 Task Force members were present at the November 17 meeting, along with guest presenters. The Task Force heard updates from the three subcommittees. The Task Force also reflected on what they heard

at the Shakopee listening session, where individuals incarcerated for aiding and abetting felony murder incarcerated at Shakopee prison shared their stories. The Task Force found that the punishment feels disproportionately harsh to these actors' culpability, Minnesota is not safer with these individuals in prison, and there are public health impacts of prison – for every year that someone is incarcerated, life expectancy is shortened by two years. The Task Force also heard a presentation by Task Force Chair Greg Egan on law review articles he has researched and authored that show racial disparities in how aiding and abetting felony murder plays out in practice. Data from this presentation are summarized above (see “Background: The scope of the issue in Minnesota”).

Find [November 17 meeting minutes](#)

([https://mn.gov/doc/assets/AAFM%20Task%20Force%20Meeting%20Minutes%2011.17.21\\_tcm1089-515302.pdf](https://mn.gov/doc/assets/AAFM%20Task%20Force%20Meeting%20Minutes%2011.17.21_tcm1089-515302.pdf)) and [recording](#)

(<https://minnesota.webex.com/recordingservice/sites/minnesota/recording/8ce5065329ed103abdbb005056812683/playback>).

#### *Task Force meeting 6: November 30, 2021*

At this meeting, the Task Force heard updates from the three subcommittees, as well as Wilder Research staff about the report review timeline. The Task Force also began discussions of the impacts of the aiding and abetting felony murder doctrine (see “Impacts of Minnesota’s aiding and abetting felony murder statutes and practices,” above). This discussion included ideas for how to define public safety, the disproportionate punishment that the doctrine allows, and alternative statutes that are still available that more accurately describe an aider or abettor’s factual culpability, such as aiding and abetting the predicate felony. The Task Force also heard a presentation from a judge in the 4<sup>th</sup> Judicial District (Hennepin County). This judge mentioned that she sees a lot of cases where felony murder is not pursued as a path to liability where the facts may allow for the charge. The judge also talked about how the doctrine allows for the principal actor to be given a deal to testify against an aider and abettor, and that situations where principal actors plead to lesser offenses means that judges are not able to achieve proportionate punishment at sentencing because the guideline ranges are different when one pleads to a lesser offense than aiding and abetting felony murder.

Find [November 30 meeting minutes](#)

([https://mn.gov/doc/assets/AAFM%20Task%20Force%20Meeting%2011.30.21%20Meeting%20Minutes%20-2\\_tcm1089-514827.pdf](https://mn.gov/doc/assets/AAFM%20Task%20Force%20Meeting%2011.30.21%20Meeting%20Minutes%20-2_tcm1089-514827.pdf)) and [recording](#)

(<https://minnesota.webex.com/recordingservice/sites/minnesota/recording/834a8e793424103a9cff005056819cde/playback>).

#### *Task Force meeting 7: December 15, 2021*

At this meeting, the Task Force heard updates from the three subcommittees, as well as from Wilder Research staff about reporting progress and results of the literature review. The Task Force also discussed what findings it would advance in the report, synthesizing all of the data analyzed and reviewed (see “Impacts of Minnesota’s aiding and abetting felony murder statutes and practices,” above). Members of the public were also present at the meeting and three requested an opportunity to make a comment. Those comments are summarized above, “Perspectives from those impacted: Public comments at meetings.” The Task Force also received word that the

Bureau of Criminal Apprehension would not be able to provide relevant booking data ahead of this report's deadline for submission.

Find [December 15 meeting minutes](#)

([https://mn.gov/doc/assets/AAFM%20Task%20Force%20Meeting%20Minutes%2012.15.21\\_tcm1089-514814.pdf](https://mn.gov/doc/assets/AAFM%20Task%20Force%20Meeting%20Minutes%2012.15.21_tcm1089-514814.pdf)) and [recording](#)

(<https://minnesota.webex.com/recordingservice/sites/minnesota/recording/cd8b86e13fed103a9f7b00505681645f/playback>).

#### *Task Force meeting 8: January 5, 2022*

The primary task at the January 5, 2022 Task Force meeting was reviewing the first draft of the legislative report. Wilder Research presented a draft to the Task Force for review on December 24, 2021. Task Force members discussed additions and changes to the report that they would like to see, with a special focus on the “Impacts” and “Recommendations” sections. There was broad support for the framing and analysis captured in the report. Next steps for reviewing the next draft were finalized.

Find [January 5 meeting minutes](#)

([https://mn.gov/doc/assets/AAFM%20Task%20Force%20Meeting%20Minutes%201.5.22\\_tcm1089-516266.pdf](https://mn.gov/doc/assets/AAFM%20Task%20Force%20Meeting%20Minutes%201.5.22_tcm1089-516266.pdf)) and [recording](#)

(<https://minnesota.webex.com/recordingservice/sites/minnesota/recording/51eeb0bd506f103abfbc0050568f1e02/playback>).

#### *Task Force meeting 9: January 19, 2022*

The primary task at this meeting was reviewing the second draft of the legislative report. Wilder Research presented the second draft to the Task Force for review on January 15, 2022. At this meeting, Task Force members closely discussed the recommendations, and expressed unanimous support for the recommendations present in the report. There was broad support for the framing and analysis captured in the report. Next steps for report finalization were discussed.

Find [January 19 meeting minutes](#)

([https://mn.gov/doc/assets/AAFM%20Task%20Force%20Meeting%20Minutes%201.19.22\\_tcm1089-516408.pdf](https://mn.gov/doc/assets/AAFM%20Task%20Force%20Meeting%20Minutes%201.19.22_tcm1089-516408.pdf)) and [recording](#)

(<https://minnesota.webex.com/recordingservice/sites/minnesota/recording/27db363e5b6f103aaf450050568f11fa/playback>).

### **Data Subcommittee**

The Data Subcommittee consisted of Nate Reitz (MN Sentencing Guidelines Commission), Pat McDermott (Blue Earth County Attorney), and Kenneth Sass (MN Department of Public Safety; MN Bureau of Criminal Apprehension), as well as Greg Egan (Minnesota Association of Criminal Defense Attorneys Appointee) and KiloMarie Granda (victim advocate and founder/director of Unspoken Voices). This committee was responsible for collecting and analyzing data on charges, convictions, and sentences for aiding and abetting felony murder.

Much of the Data Subcommittee’s work was advanced independently by individuals on the subcommittee, and supporting volunteers. The Data Subcommittee also held meetings:

#### *Data Subcommittee meeting 1: September 3, 2021*

The Subcommittee heard a presentation from Kate Chatfield at the San Francisco District Attorney’s Office about California’s aiding and abetting felony murder law reform. This information was also presented at Task Force meeting 3, above. The Subcommittee reviewed its responsibilities and plotted out a path to collect and analyze data describing:

1. Demographic information for who is being convicted of aiding and abetting felony murder and the sentence length
2. Cases where felony murder was the top charge, or cases where it was pled down
3. Geographic disparities

#### *Data Subcommittee meeting 2: October 6, 2021*

At this meeting, Mr. Reitz presented a spreadsheet of case information from the Minnesota Sentencing Guidelines Commission. This spreadsheet includes all convictions for aiding and abetting felony murder in Minnesota from 2010 through 2019 where aiding and abetting felony murder is the top conviction. The dataset includes charging documents, sentencing worksheets, plea documents, other counts listed and outcomes. Preliminary analysis shows that there are 262 convictions for felony murder in Minnesota, and 84 convictions where aiding and abetting felony murder is the top count. Mr. Reitz and Mr. Egan have been in touch with a university professor who teaches a course where students will be reading through the pertinent documents and adding columns to the spreadsheet to indicate which actors participated in the same cohort, what companion case numbers are, whether those convicted were principals to the homicidal acts or accomplices, and the sentence range compared to the principal’s sentence, as well as other data points discussed by Mr. Reitz and Mr. Egan.

#### *Data Subcommittee meeting 3: November 24, 2021*

At this meeting, Mr. Reitz presented the Sankey diagram showing charging and conviction patterns in aiding and abetting felony murder cases across Minnesota. These data come from Minnesota Judicial Branch data. The Subcommittee discussed reaching out to tribal governments and the Bureau of Criminal Apprehension to gather tribal data and booking data, respectively.

### **Engagement Subcommittee**

The Engagement Subcommittee consisted of Toni Cater (related to someone incarcerated for aiding and abetting felony murder), Nick Kimball (MN Department of Corrections), and Bill Ward (Minnesota State Public Defender), as well as Greg Egan (Minnesota Association of Criminal Defense Attorneys Appointee) and KiloMarie Granda (victim advocate and founder/director of Unspoken Voices). This subcommittee was responsible for gathering information from those impacted by Minnesota’s aiding and abetting felony murder doctrine, including victims’ family members and loved ones, and those incarcerated under this doctrine.

Much of the Engagement Subcommittee’s work was advanced independently by individuals on the subcommittee, through networking with organizations and individuals. To advance their work, the subcommittee:

1. Emailed 37 victim/survivor organizations soliciting testimony from victims’ loved ones. These organizations included 28 community-based organizations and nine victim services offices housed within County Attorney’s offices in various counties.
2. Sent a letter to all public defense offices in Minnesota inviting public defenders to invite impacted clients to participate in the Task Force’s data collection.
3. Met with Minnesota Alliance on Crime and Violence Free Minnesota representatives and invited these organizations and their coalition members to participate in the Task Force’s data collection.
4. Organized listening sessions where people incarcerated or recently released from incarceration for aiding and abetting felony murder could talk about their cases and the impact of their conviction and incarceration. The Engagement Subcommittee also distributed and collected retroactive informed consent forms from listening session participants, so that listening session participants could opt in or opt out from having a summary of their story included in this report.

The subcommittee also held the following meetings:

#### *Engagement Subcommittee meeting 1: August 30, 2021*

Subcommittee members agreed that they needed to hear from victims and those convicted in order to understand the issue in a balanced way. They discussed organizing listening sessions at state prisons, as well as working with victim advocacy organizations and victim-witness coordinators to have listening sessions with victims’ loved ones. The subcommittee also planned to hear from those who passed reforms in California in order to understand the perspectives driving those reforms. The subcommittee organized and assigned next steps.

#### *Engagement Subcommittee meeting 2: September 21, 2021*

Subcommittee meetings discussed specific plans to advance their work, including using cases pulled by the Data Subcommittee to identify impacted people with diversity of age, geography, race, and criminal history score and invite these people to share their stories with the Task Force. The subcommittee developed a plan to create Task Force letterhead to properly identify themselves in communications. The subcommittee discussed organizing virtual listening sessions, and explored plans to survey those incarcerated in Minnesota under the aiding and abetting felony murder doctrine. The subcommittee identified and assigned next steps.

Results from this subcommittee’s work are presented in “Perspectives from those impacted by the current doctrine,” above.

### **Statute/Case Law Subcommittee**

The Statute/Case Law Subcommittee consisted of Perry Moriearty (University of Minnesota Law School professor), Clare Diegel (Staff Attorney with the ACLU-MN), Brian Mueller (Stillwater Police Department Chief), and Kathy Keena (Dakota County Attorney), as well as Greg Egan (Minnesota Association of Criminal Defense Attorneys Appointee) and KiloMarie Granda (victim advocate and founder/director of Unspoken Voices). This subcommittee was responsible for reviewing relevant state statutes and state and federal court decisions.

*Statute/Case Law Subcommittee meeting 1: August 31, 2021*

At this meeting, the subcommittee reviewed the enabling legislation, and agreed this subcommittee's primary focus would be on understanding and synthesizing aiding and abetting felony murder statutes across the 50 states, as well as on reviewing and synthesizing relevant case law limits to aiding and abetting felony murder liability in Minnesota, and other states with notable case law limits. The subcommittee finally agreed on next steps of engaging law student(s) at the University of Minnesota to aid in the legal research and review.

*Statute/Case Law Subcommittee meeting 2: September 13, 2021*

At this meeting, subcommittee members reviewed a 50-State Felony Murder Statute Survey conducted in 2017 by law students at the University of San Francisco, and agreed that the format and categories were useful to this subcommittee's work. The subcommittee agreed on a format for their own 50-state review document. Finally, the subcommittee agreed that Prof. Moriearty would draft a memo to a law student to ask that student to begin the legal research necessary for the subcommittee's review. Prof. Moriearty drafted the memo and circulated it to the subcommittee on Oct 1; the memo was approved and the student began to assist with the legal research.

The rest of the subcommittee's work was organized over email and at Task Force meetings, and involved subcommittee members reviewing the 50 state survey and refining the categories of statutory and case law limits to present to the Minnesota Legislature.

## Appendix B. Charging data

Here, we present Minnesota Judicial Branch data of all those charged under the aiding and abetting felony murder doctrine in Minnesota from 2010 through 2019 (excluding those charged with *attempted* aiding and abetting felony murder, and excluding those who were charged where all charges resulted in dismissals or acquittals; N=130).

### Aiding and abetting felony murder charges, 2010 – 2019.

Gender	Case Party_ Age at filing	County attorney	Murder statute	Possible predicate offense	Trial	Apparent top conviction	Sentence range
Male	20	Hennepin	609.185(a)(3)	Not Charged	No Trial	Accomplice After the Fact	5.01–10 years
Female	33	Wright	609.19.2(1)	Kidnapping	No Trial	Accomplice After the Fact	0–5 years
Female	42	Ramsey	609.19.2(1)	Not Charged	No Trial	Accomplice After the Fact	10.01–20 years
Female	26	Anoka	609.19.2(1)	Endanger/Maliciously Punish Child	No Trial	Accomplice After the Fact	10.01–20 years
Female	40	Hennepin	609.185(a)(3)	Not Charged	No Trial	Accomplice After the Fact	10.01–20 years
Unknown	25	Ramsey	609.19.2(1)	Not Charged	No Trial	Accomplice After the Fact	10.01–20 years
Male	35	Anoka	609.19.2(1)	Not Charged	No Trial	Accomplice After the Fact	10.01–20 years
Male	37	Benton	609.19.2(1)	Assault-1st	No Trial	Accomplice After the Fact	10.01–20 years
Male	28	Ramsey	609.19.2(1)	Crime for Benefit of a Gang	No Trial	Accomplice After the Fact	5.01–10 years
Female	34	Olmsted	609.19.2(1)	Not Charged	No Trial	Accomplice After the Fact	0–5 years
Male	19	Olmsted	609.19.2(1)	Not Charged	No Trial	Accomplice After the Fact	0–5 years
Male	20	Hennepin	609.185(a)(3)	Not Charged	No Trial	Accomplice After the Fact	5.01–10 years
Male	22	Stearns	609.185(a)(3)	Aggravated Robbery-1st	Court Trial	Aggravated Robbery-1st Deg	5.01–10 years
Male	21	Dakota	609.19.2(1)	Aggravated Robbery-1st	No Trial	Aggravated Robbery-1st Deg	0–5 years
Male	29	Ramsey	609.19.2(1)	Aggravated Robbery-1st	No Trial	Aggravated Robbery-1st Deg	5.01–10 years
Male	23	Stearns	609.185(a)(3)	Aggravated Robbery-1st	No Trial	Aid/Abet Aggravated Robbery-1st Deg	5.01–10 years
Male	29	Ramsey	609.19.2(1)	Aggravated Robbery-1st	No Trial	Aid/Abet Aggravated Robbery-1st Deg	5.01–10 years
Male	17	Anoka	609.19.2(1)	Not Charged	No Trial	Aid/Abet Aggravated Robbery-1st Deg	0–5 years
Male	40	St. Louis	609.19.2(1)	Kidnapping	Jury Trial	Aid/Abet Assault-1st Degree	10.01–20 years

Gender	Case Party_ Age at filing	County attorney	Murder statute	Possible predicate offense	Trial	Apparent top conviction	Sentence range
Male	23	Hennepin	609.185(a)(3)	Not Charged	Jury Trial	Aid/Abet Attempt to Commit Murder -1st Degree - Premeditated	10.01–20 years
Male	23	Ramsey	609.19.2(1)	Crime for Benefit of a Gang	No Trial	Aid/Abet Crime for Benefit of Gang	10.01–20 years
Male	22	Ramsey	609.185(a)(3)	Crime for Benefit of a Gang	Jury Trial	Aid/Abet Crime for Benefit of Gang	30.01–40 years
Male	19	Hennepin	609.185(a)(3)	Drive-by-Shooting	No Trial	Aid/Abet Drive by Shooting	0–5 years
Male	17	Hennepin	609.185(a)(3)	Drive-by-Shooting	Jury Trial	Aid/Abet Drive by Shooting	0–5 years
Male	17	Anoka	609.19.2(1)	Not Charged	No Trial	Aid/Abet Manslaughter-1st Degree	5.01–10 years
Male	23	Ramsey	609.19.2(1)	Not Charged	Jury Trial	Aid/Abet Manslaughter-2nd Degree	5.01–10 years
Male	18	Stearns	609.185(a)(3)	Aggravated Robbery-1st	No Trial	Aid/Abet Murder-1st Degree-While Committing Felony	5.01–10 years
Male	20	Lyon	609.185(a)(3)	Arson-1st Degree-Dwelling	No Trial	Aid/Abet Murder-1st Degree-While Committing Felony	Life
Male	27	Hennepin	609.185(a)(3)	Not Charged	No Trial	Aid/Abet Murder-1st Degree-While Committing Felony	Life
Male	28	Hennepin	609.185(a)(3)	Not Charged	Jury Trial	Aid/Abet Murder-1st Degree-While Committing Felony	Life
Male	20	Benton	609.19.2(1)	Assault-1st	Jury Trial	Aid/Abet Murder-2nd Degree	20.01-30 years
Male	21	Ramsey	609.185(a)(3)	Crime for Benefit of a Gang	No Trial	Aid/Abet Murder-2nd Degree-Drive-by Shooting	20.01-30 years
Male	40	Jackson	609.19.2(1)	Kidnapping	Jury Trial	Aid/Abet Murder-2nd Degree-Intentional	20.01-30 years
Male	17	Hennepin	609.19.2(1)	Not Charged	No Trial	Aid/Abet Murder-2nd Degree-Intentional	20.01-30 years
Male	26	Ramsey	609.19.2(1)	Not Charged	Jury Trial	Aid/Abet Murder-2nd Degree-Intentional	30.01–40 years
Male	26	Ramsey	609.19.2(1)	Not Charged	No Trial	Aid/Abet Murder-2nd Degree-Intentional	30.01–40 years
Female	25	Carlton	609.185(a)(3)	Not Charged	No Trial	Aid/Abet Murder-2nd Degree-Intentional	20.01-30 years
Male	18	Dakota	609.185(a)(3)	Not Charged	No Trial	Aid/Abet Murder-2nd Degree-Intentional	20.01-30 years

<b>Gender</b>	<b>Case Party_ Age at filing</b>	<b>County attorney</b>	<b>Murder statute</b>	<b>Possible predicate offense</b>	<b>Trial</b>	<b>Apparent top conviction</b>	<b>Sentence range</b>
Male	29	Carver	609.185(a)(3)	Not Charged	No Trial	Aid/Abet Murder-2nd Degree-Intentional	30.01–40 years
Female	42	Hennepin	609.19.2(1)	Aggravated Robbery-1st	Jury Trial	Aid/Abet Murder-2nd Degree-Intentional	30.01–40 years
Male	30	Hennepin	609.19.2(1)	Aggravated Robbery-1st	Jury Trial	Aid/Abet Murder-2nd Degree-Intentional	20.01-30 years
Male	19	Winona	609.185(a)(3)	Aggravated Robbery-1st	No Trial	Aid/Abet Murder-2nd Degree-Intentional	20.01-30 years
Male	30	Ramsey	609.19.2(1)	Not Charged	Jury Trial	Aid/Abet Murder-2nd Degree-Intentional	30.01–40 years
Male	31	Ramsey	609.19.2(1)	Not Charged	No Trial	Aid/Abet Murder-2nd Degree-Intentional	20.01-30 years
Male	24	Steele	609.185(a)(3)	Not Charged	No Trial	Aid/Abet Murder-2nd Degree-Intentional	30.01–40 years
Male	50	Hennepin	609.185(a)(3)	Not Charged	No Trial	Aid/Abet Murder-2nd Degree-Intentional	20.01-30 years
Male	18	Hennepin	609.185(a)(3)	Not Charged	No Trial	Aid/Abet Murder-2nd Degree-Intentional	30.01–40 years
Male	33	Hennepin	609.19.2(1)	Burglary-1st	No Trial	Aid/Abet Murder-2nd Degree-Intentional	20.01-30 years
Male	20	Dakota	609.19.2(1)	Aggravated Robbery-1st	Jury Trial	Aid/Abet Murder-2nd Degree-Intentional	20.01-30 years
Male	21	Hennepin	609.185(a)(3)	Not Charged	No Trial	Aid/Abet Murder-2nd Degree-Intentional	20.01-30 years
Male	28	Stearns	609.19.2(1)	Other	Jury Trial	Aid/Abet Murder-2nd Degree-Intentional	30.01–40 years
Male	20	Scott	609.19.2(1)	Not Charged	No Trial	Aid/Abet Murder-2nd Degree-While Committing Felony	10.01–20 years
Male	20	Hennepin	609.19.2(1)	Not Charged	Jury Trial	Aid/Abet Murder-2nd Degree-While Committing Felony	10.01–20 years
Male	20	Mille Lacs	609.19.2(1)	Other	Jury Trial	Aid/Abet Murder-2nd Degree-While Committing Felony	20.01-30 years
Male	18	Scott	609.19.2(1)	Not Charged	No Trial	Aid/Abet Murder-2nd Degree-While Committing Felony	10.01–20 years
Male	18	Hennepin	609.19.2(1)	Aggravated Robbery-1st	No Trial	Aid/Abet Murder-2nd Degree-While Committing Felony	10.01–20 years

<b>Gender</b>	<b>Case Party_ Age at filing</b>	<b>County attorney</b>	<b>Murder statute</b>	<b>Possible predicate offense</b>	<b>Trial</b>	<b>Apparent top conviction</b>	<b>Sentence range</b>
Male	23	Hennepin	609.19.2(1)	Not Charged	No Trial	Aid/Abet Murder-2nd Degree-While Committing Felony	10.01–20 years
Male	17	Hennepin	609.19.2(1)	Not Charged	No Trial	Aid/Abet Murder-2nd Degree-While Committing Felony	10.01–20 years
Male	25	Hennepin	609.19.2(1)	Aggravated Robbery-1st	No Trial	Aid/Abet Murder-2nd Degree-While Committing Felony	5.01–10 years
Male	20	Hennepin	609.19.2(1)	Assault-1st	No Trial	Aid/Abet Murder-2nd Degree-While Committing Felony	5.01–10 years
Male	18	Dakota	609.185(a)(3)	Not Charged	No Trial	Aid/Abet Murder-2nd Degree-While Committing Felony	10.01–20 years
Male	17	Dakota	609.19.2(1)	Not Charged	No Trial	Aid/Abet Murder-2nd Degree-While Committing Felony	10.01–20 years
Male	19	Wright	609.19.2(1)	Aggravated Robbery-1st	No Trial	Aid/Abet Murder-2nd Degree-While Committing Felony	10.01–20 years
Male	21	Wright	609.19.2(1)	Aggravated Robbery-1st	No Trial	Aid/Abet Murder-2nd Degree-While Committing Felony	5.01–10 years
Male	18	Wright	609.19.2(1)	Aggravated Robbery-1st	No Trial	Aid/Abet Murder-2nd Degree-While Committing Felony	10.01–20 years
Male	36	Scott	609.19.2(1)	Not Charged	No Trial	Aid/Abet Murder-2nd Degree-While Committing Felony	10.01–20 years
Male	50	Ramsey	609.19.2(1)	Not Charged	Jury Trial	Aid/Abet Murder-2nd Degree-While Committing Felony	10.01–20 years
Female	38	Hennepin	609.19.2(1)	Not Charged	No Trial	Aid/Abet Murder-2nd Degree-While Committing Felony	5.01–10 years
Male	32	Dakota	609.19.2(1)	Not Charged	No Trial	Aid/Abet Murder-2nd Degree-While Committing Felony	10.01–20 years
Male	23	Hennepin	609.19.2(1)	Not Charged	No Trial	Aid/Abet Murder-2nd Degree-While Committing Felony	5.01–10 years
Male	24	Ramsey	609.19.2(1)	Not Charged	Court Trial	Aid/Abet Murder-2nd Degree-While Committing Felony	20.01-30 years
Male	24	Ramsey	609.19.2(1)	Not Charged	No Trial	Aid/Abet Murder-2nd Degree-While Committing Felony	10.01–20 years
Male	26	Hennepin	609.19.2(1)	Aggravated Robbery-1st	No Trial	Aid/Abet Murder-2nd Degree-While Committing Felony	10.01–20 years
Male	36	Steele	609.19.2(1)	Not charged	No Trial	Aid/Abet Murder-2nd Degree-While Committing Felony	10.01–20 years

Gender	Case Party_ Age at filing	County attorney	Murder statute	Possible predicate offense	Trial	Apparent top conviction	Sentence range
Male	22	Dakota	609.19.2(1)	Aggravated Robbery-1st	No Trial	Aid/Abet Murder-2nd Degree-While Committing Felony	5.01–10 years
Female	20	Hennepin	609.19.2(1)	Burglary-1st	No Trial	Aid/Abet Murder-2nd Degree-While Committing Felony	10.01–20 years
Male	20	Hennepin	609.19.2(1)	Burglary-1st	No Trial	Aid/Abet Murder-2nd Degree-While Committing Felony	10.01–20 years
Male	23	Ramsey	609.19.2(1)	Not Charged	No Trial	Aid/Abet Murder-2nd Degree-While Committing Felony	10.01–20 years
Male	21	Ramsey	609.19.2(1)	Aggravated Robbery-1st	No Trial	Aid/Abet Murder-2nd Degree-While Committing Felony	0–5 years
Male	27	Dakota	609.19.2(1)	Not Charged	No Trial	Aid/Abet Murder-2nd Degree-While Committing Felony	20.01-30 years
Male	17	Dakota	609.19.2(1)	Assault-2nd	No Trial	Aid/Abet Murder-2nd Degree-While Committing Felony	10.01–20 years
Female	25	Mille Lacs	609.19.2(1)	Assault-1st	No Trial	Aid/Abet Simple Robbery	0–5 years
Male	31	Mille Lacs	609.19.2(1)	Assault-1st	No Trial	Aid/Abet Simple Robbery	0–5 years
Male	26	Benton	609.19.2(1)	Assault-1st	Jury Trial	Arson-2nd Degree	0–5 years
Male	19	Hennepin	609.185(a)(2)	Assault-1st	No Trial	Assault-1st Degree	10.01–20 years
Male	19	Clay	609.185(a)(3)	Aggravated Robbery-1st	No Trial	Assault-1st Degree	5.01–10 years
Male	25	Clay	609.185(a)(3)	Aggravated Robbery-1st	No Trial	Assault-1st Degree	10.01–20 years
Male	27	St. Louis	609.19.2(1)	Kidnapping	No Trial	Assault-1st Degree	10.01–20 years
Male	17	Hennepin	609.185(a)(3)	Aggravated Robbery-1st	No Trial	Attempted Aggravated Robbery-1st Deg	5.01–10 years
Male	26	Hennepin	609.185(a)(3)	Not Charged	Jury Trial	Attempted Murder-1st Degree-While Committing Felony	10.01–20 years
Male	24	Hennepin	609.185(a)(3)	Drive-by-Shooting	No Trial	Attempted Murder-2nd Degree	10.01–20 years
Male	18	Hennepin	609.185(a)(3)	Drive-by-Shooting	No Trial	Attempted Murder-2nd Degree-Drive-by Shooting	10.01–20 years
Male	32	Ramsey	609.19.2(1)	Burglary-1st	No Trial	Burglary-1st Deg	5.01–10 years
Male	35	Ramsey	609.19.2(1)	Burglary-1st	No Trial	Burglary-1st Deg	0–5 years
Male	24	Clay	609.185(a)(3)	Aggravated Robbery-1st	No Trial	Conspiracy to Sell Drugs-5th Degree	0–5 years

Gender	Case Party_ Age at filing	County attorney	Murder statute	Possible predicate offense	Trial	Apparent top conviction	Sentence range
Male	18	Ramsey	609.19.2(1)	Riot-1st	No Trial	Crime for Benefit of Gang	10.01–20 years
Male	32	Ramsey	609.19.2(1)	Riot-1st	Jury Trial	Crime for Benefit of Gang	30.01–40 years
Male	26	Hennepin	609.19.2(1)	Not Charged	No Trial	Manslaughter-1st Degree	5.01–10 years
Male	21	Ramsey	609.19.2(1)	Aggravated Robbery-1st	No Trial	Manslaughter-2nd Degree	0–5 years
Male	24	Cass	609.19.2(1)	Aggravated Robbery-1st	No Trial	Manslaughter-2nd Degree	5.01–10 years
Male	44	Otter Tail	609.19.2(1)	Endanger/Maliciously Punish Child	No Trial	Manslaughter-2nd Degree	0–5 years
Male	39	Ramsey	609.19.2(1)	Not Charged	No Trial	Manslaughter-2nd Degree	5.01–10 years
Male	17	Hennepin	609.185(a)(3)	Not Charged	Jury Trial	Murder-1st Degree-While Committing Felony	Life
Unknown	46	Ramsey	609.19.2(1)	Not Charged	Jury Trial	Murder-1st Degree-While Committing Felony	Life
Male	17	Hennepin	609.185(a)(3)	Aggravated Robbery-1st	Court Trial	Murder-2nd Degree	30.01–40 years
Male	40	Hennepin	609.185(a)(3)	Not Charged	No Trial	Murder-2nd Degree	30.01–40 years
Male	20	Hennepin	609.185(a)(3)	Not Charged	No Trial	Murder-2nd Degree-Intentional	20.01-30 years
Male	16	Hennepin	609.185(a)(3)	Not Charged	No Trial	Murder-2nd Degree-Intentional	20.01-30 years
Male	25	Ramsey	609.19.2(1)	Not Charged	Jury Trial	Murder-2nd Degree-Intentional	20.01-30 years
Male	35	Carver	609.19.2(1)	Not Charged	No Trial	Murder-2nd Degree-Intentional	30.01–40 years
Female	32	Hennepin	609.185(a)(3)	Not Charged	No Trial	Murder-2nd Degree-Intentional	10.01–20 years
Female	17	St. Louis	609.185(a)(3)	Not Charged	No Trial	Murder-2nd Degree-Intentional	30.01–40 years
Male	27	Stearns	609.19.2(1)	Not Charged	Jury Trial	Murder-2nd Degree-Intentional	0–5 years
Male	27	Stearns	609.19.2(1)	Not Charged	Court Trial	Murder-2nd Degree-Intentional	30.01–40 years
Male	34	Hennepin	609.19.2(1)	Aggravated Robbery-1st	Jury Trial	Murder-2nd Degree-While Committing Felony	10.01–20 years
Female	26	Dakota	609.19.2(1)	Aggravated Robbery-1st	No Trial	Murder-2nd Degree-While Committing Felony	10.01–20 years

<b>Gender</b>	<b>Case Party_ Age at filing</b>	<b>County attorney</b>	<b>Murder statute</b>	<b>Possible predicate offense</b>	<b>Trial</b>	<b>Apparent top conviction</b>	<b>Sentence range</b>
Male	32	Ramsey	609.19.2(1)	Aggravated Robbery-1st	No Trial	Murder-2nd Degree-While Committing Felony	10.01–20 years
Female	29	Ramsey	609.19.2(1)	Aggravated Robbery-1st	No Trial	Murder-2nd Degree-While Committing Felony	10.01–20 years
Male	24	Ramsey	609.19.2(1)	Aggravated Robbery-1st	No Trial	Murder-2nd Degree-While Committing Felony	10.01–20 years
Unknown	51	Ramsey	609.19.2(1)	Not Charged	No Trial	Murder-2nd Degree-While Committing Felony	10.01–20 years
Male	20	Hennepin	609.19.2(1)	Burglary-1st	No Trial	Murder-2nd Degree-While Committing Felony	10.01–20 years
Female	19	Hennepin	609.19.2(1)	Burglary-1st	No Trial	Murder-2nd Degree-While Committing Felony	10.01–20 years
Male	20	Hennepin	609.19.2(1)	Burglary-1st	No Trial	Murder-2nd Degree-While Committing Felony	10.01–20 years
Male	44	Anoka	609.19.2(1)	Not Charged	No Trial	Murder-2nd Degree-While Committing Felony	30.01–40 years
Male	26	Ramsey	609.19.2(1)	Not Charged	No Trial	Murder-2nd Degree-While Committing Felony	10.01–20 years
Male	20	Ramsey	609.19.2(1)	Not Charged	Jury Trial	Murder-2nd Degree-While Committing Felony	10.01–20 years
Male	19	Anoka	609.19.2(1)	Other	No Trial	Murder-2nd Degree-While Committing Felony	10.01–20 years
Female	40	Otter Tail	609.19.2(1)	Endanger/Maliciously Punish Child	No Trial	Murder-2nd Degree-While Committing Felony	10.01–20 years
Male	18	Mille Lacs	609.19.2(1)	Crime for Benefit of a Gang	No Trial	Murder-2nd Degree-While Committing Felony	0–5 years
Male	29	Ramsey	609.19.2(1)	Robbery-Simple	No Trial	Simple Robbery	0–5 years

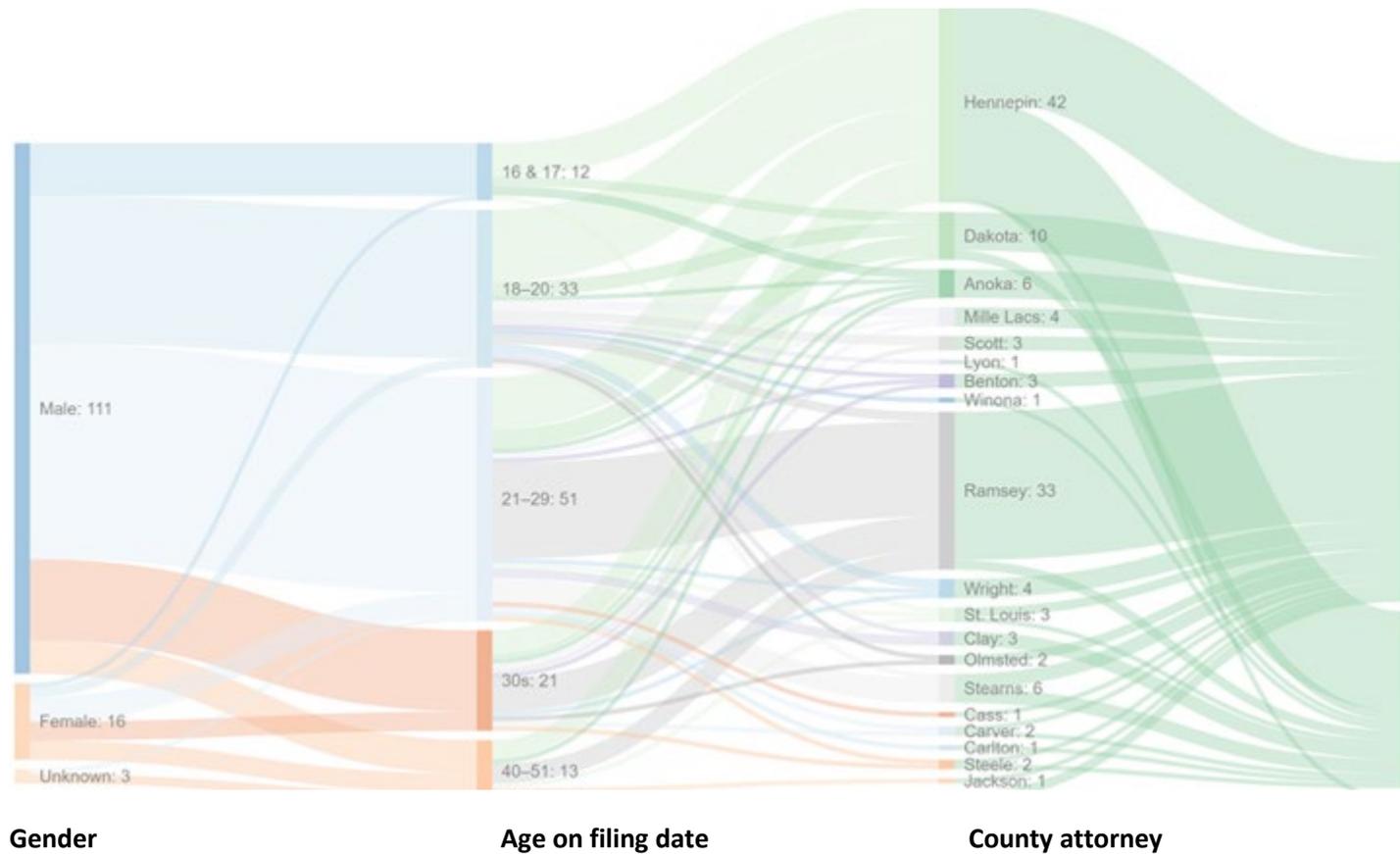
Next, we present self-reported race data for all those charged with aiding and abetting felony murder in Minnesota from 2010 through 2019 (*including* those charged with *attempted* aiding and abetting felony murder, and excluding those who were charged where all charges resulted in dismissals or acquittals; N=138).

**Self-reported race of those charged with aiding and abetting felony murder in Minnesota, 2010 – 2019.**

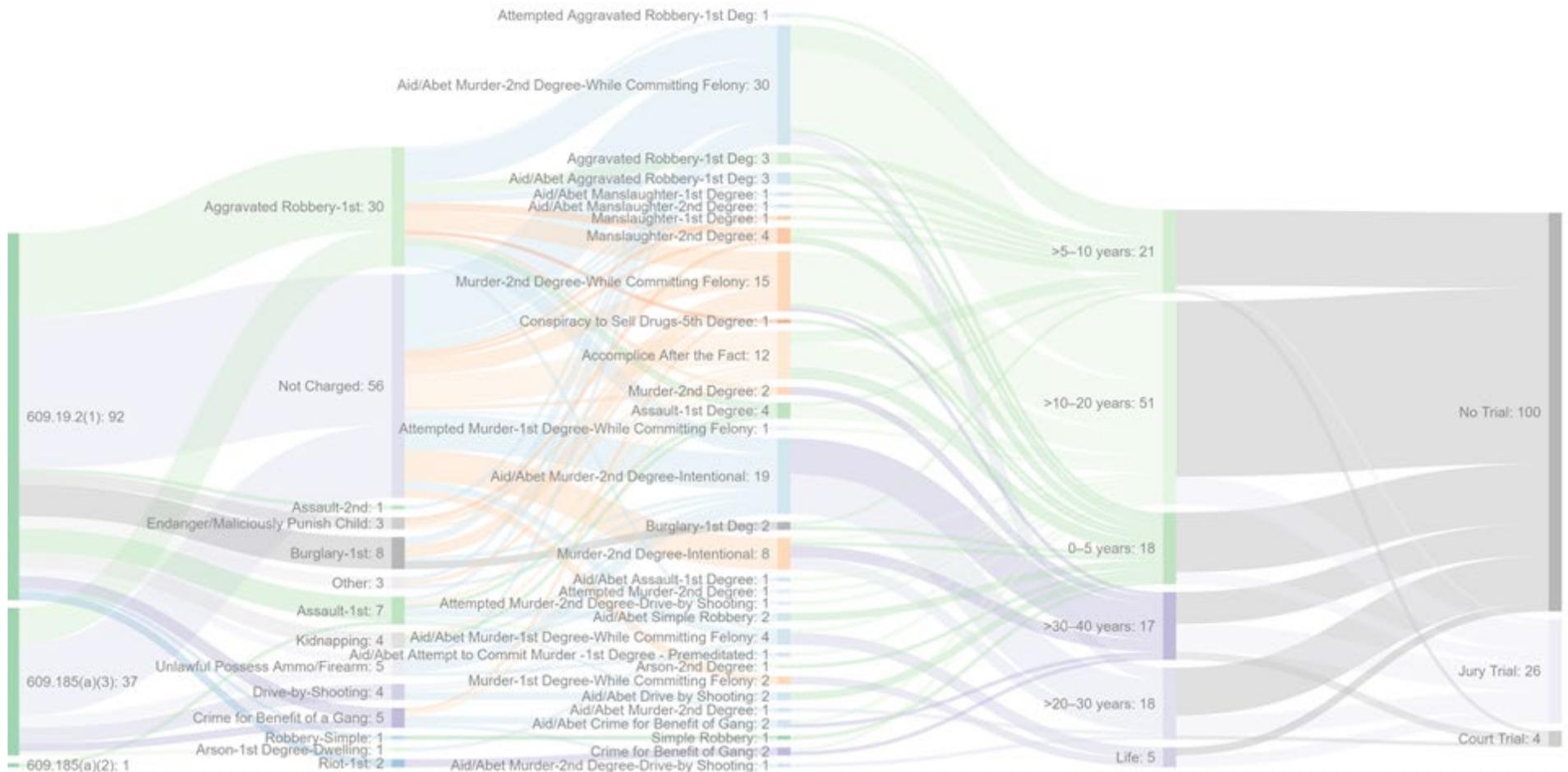
<b>Race/Ethnicity</b>	<b>Number of Cases</b>
American Indian or Alaska Native	8
Asian or Pacific Islander	1
Black or African American	66
Hispanic or Latino	11
White	27
Multiracial	2
Another race not listed	2
Unknown Race	21

Finally, we present a visual summary of gender, county, and charge breakdown for those charged with aiding and abetting felony murder in Minnesota from 2010 through 2019 (*excluding* those charged with *attempted* aiding and abetting felony murder, and excluding those who were charged where all charges resulted in dismissals or acquittals; N=130).

**Characteristics of aiding & abetting felony murder cases charged 2010–2019 where any conviction resulted**



**Characteristics of aiding & abetting felony murder cases charged 2010–2019 where any conviction resulted (continued)**



**Aiding & abetting felony murder charge statute**

*Does not necessarily exclude principal actors*

*Does not exclude cases where intentional murder was charged too*

**Predicate felony candidates**

*Most serious other offense charged*

*Homicide and accomplice-after-the-fact charges excluded*

**Longest-sentenced offense**

*“Longest” does not necessarily account for consecutive sentencing*

**Prison sentence**

*Executed sentence pronounced for longest-sentenced offense*

**Type of trial**

Data source: Minnesota Judicial Branch data

Scope: Convicted adult criminal cases filed with aid/abet felony murder charge, filed 2010 to 2019, as of 10/22/2021

Analysis: MSGC staff, Nov. 2021

## Appendix C. Conviction data

Here, we present data from cohorts of actors. Where one actor was convicted of aiding and abetting felony murder as a top-line offense in Minnesota from 2010 through 2019, Task Force members compiled data on charges and convictions of co-defendants.

**Charge and conviction data by cohort, where one defendant was convicted of aiding and abetting felony murder as a top-line offense in Minnesota from 2010 through 2019 (N=126 individuals comprising 57 cohorts).**

Cohort Number	Role	Principal's conviction	Principal's sentence	Year Sentenced	County	Case Number	Sex	Race	Age Category	If a co-defendant, charges faced	Convicted offenses	Pronounced confinement (in months)
1	Principal	Murder-1st Degree - With Intent - While Committing a Felony	Life	2019	Hennepin	27CR1720192	M	Black	31-40		Murder 1	Life
1	Unknown	Murder-1st Degree - With Intent - While Committing a Felony	Life	2019	Hennepin	27CR1720191	M	Unknown	31-40	Assault-2nd Degree-Dangerous Weapon (Aid/Abet)	Murder - 2nd Degree - With Intent-Not Premeditated (Aid/Abet)	386.00
1	Unknown	Murder-1st Degree - With Intent - While Committing a Felony	Life	2019	Hennepin	27CR183021	F	Unknown	31-40	Aiding an Offender to Avoid Arrest-Harbor/Conceal	Aiding an Offender to Avoid Arrest-Harbor/Conceal; Aiding an Offender to Avoid Arrest-Harbor/Conceal	365 days
2	Principal	Murder-1st Degree - With Intent - While Committing a Felony	Life	2019	St. Louis	69DUCR17833	M	Black	18-21		Murder 1	Life
2	Planning and carrying out the robbery	Murder-1st Degree - With Intent - While Committing a Felony	Life	2018	St. Louis	69DUCR17840	M	White	18-21		Murder 1	Life
2	Unknown	Murder-1st Degree - With Intent - While Committing a Felony	Life	2019	St. Louis	69DUCR17825	F	Unknown	22-25	Aiding an Offender - Accomplice After the Fact	Aiding an Offender - Accomplice After the Fact	57.00
3	Planning and carrying out the burglary	Murder - 2nd Degree - With Intent-Not Premeditated (Aid/Abet); Assault-2nd Degree-Dangerous Weapon (Aid/Abet)	382.00	2018	Hennepin	27CR1710675	F	White	18-21		Mur 2 sev=10	162.00

Cohort Number	Role	Principal's conviction	Principal's sentence	Year Sentenced	County	Case Number	Sex	Race	Age Category	If a co-defendant, charges faced	Convicted offenses	Pronounced confinement (in months)
3	Planning and carrying out the burglary	Murder - 2nd Degree - With Intent-Not Premeditated (Aid/Abet); Assault-2nd Degree-Dangerous Weapon (Aid/Abet)	382.00	2018	Hennepin	27CR1710693	F	White	18-21		Mur 2 sev=10	162.00
3	Planning and carrying out the burglary; assisted in physically assaulting the victim	Murder - 2nd Degree - With Intent-Not Premeditated (Aid/Abet); Assault-2nd Degree-Dangerous Weapon (Aid/Abet)	382.00	2018	Hennepin	27CR1710794	M	Black	18-21		Mur 2 sev=10	204.00
3	Planning the burglary	Murder - 2nd Degree - With Intent-Not Premeditated (Aid/Abet); Assault-2nd Degree-Dangerous Weapon (Aid/Abet)	382.00	2018	Hennepin	27CR1710674	M	White	18-21		Mur 2 sev=10	153.00
3	Planning the burglary	Murder - 2nd Degree - With Intent-Not Premeditated (Aid/Abet); Assault-2nd Degree-Dangerous Weapon (Aid/Abet)	382.00	2018	Hennepin	27CR1710795	M	White	18-21		Mur 2 sev=10	153.00
3	Principal	Murder - 2nd Degree - With Intent-Not Premeditated (Aid/Abet); Assault-2nd Degree-Dangerous Weapon (Aid/Abet)	382.00	2018	Hennepin	27CR1710797	M	Unknown	31-40	Murder - 2nd Degree - With Intent-Not Premeditated (Aid/Abet - GOC); Assault-2nd Degree-Dangerous Weapon (Aid/Abet - GOC)	Murder - 2nd Degree - With Intent-Not Premeditated (Aid/Abet - GOC); Assault-2nd Degree-Dangerous Weapon (Aid/Abet - GOC)	382.00
4	Principal	Murder in the 2nd Degree - Without Intent - While Committing a Felony - Malicious Punishment of a Child	300	2019	Dakota	19HACR18910	M	Black	26-30		Mur 2 sev=10	300.00

Cohort Number	Role	Principal's conviction	Principal's sentence	Year Sentenced	County	Case Number	Sex	Race	Age Category	If a co-defendant, charges faced	Convicted offenses	Pronounced confinement (in months)
4	Unknown	Murder in the 2nd Degree - Without Intent - While Committing a Felony - Malicious Punishment of a Child	300	2019	Dakota	19HACR18909	F	Unknown	31-40	Manslaughter in the 2nd Degree (Child Neglect; Knowingly Permits Continuing Physical Abuse)	Manslaughter in the 2nd Degree (Child Neglect; Knowingly Permits Continuing Physical Abuse)	41.00
5	Grabbed and restrained the victim	Murder - 2nd Degree - Without Intent - While Committing a Felony	150.00	2017	Dakota	19HACR164086	M	Hispanic	18-21		Mur 2 sev=10	103.00
5	Principal	Murder - 2nd Degree - Without Intent - While Committing a Felony	150.00	2016	Dakota	19HACR154090	F	Hispanic	26-30		Mur 2 sev=10	128.00
5	Unknown	Murder - 2nd Degree - Without Intent - While Committing a Felony	150.00	2016	Dakota	19HACR154089	M	Unknown	18-21	Aggravated Robbery in the 1st Degree	Aggravated Robbery in the 1st Degree	57.00
6	Principal	Murder - 2nd Degree - Without Intent - While Committing a Felony	363.00	2018	Anoka	2CR173290	M	Black	41-50		Mur 2 sev=10	363.00
6	Unknown	Murder - 2nd Degree - Without Intent - While Committing a Felony	363.00	2018	Anoka	02CR173291	M	Unknown	31-40	Aiding an Offender - Accomplice After the Fact	Aiding an Offender - Accomplice After the Fact	138.00
7	Planning and carrying out the burglary	Aiding an Offender - Accomplice After the Fact	240.00	2018	Hennepin	27CR1633298	M	Black	26-30		Murder 1	Life
7	Planning and carrying out the burglary	Aiding an Offender - Accomplice After the Fact	240.00	2018	Hennepin	27CR1633309	M	Black	26-30		Murder 1	Life
7	Unknown	Aiding an Offender - Accomplice After the Fact	240.00	2018	Hennepin	27CR1633294	F	Unknown	22-25	Aiding an Offender - Accomplice After the Fact	Aiding an Offender - Accomplice After the Fact	86.00
7	Principal	Aiding an Offender - Accomplice After the Fact	240.00	2018	Hennepin	27CR1633308	F	Unknown	31-40	Aiding an Offender - Accomplice After the Fact	Aiding an Offender - Accomplice After the Fact	240.00

Cohort Number	Role	Principal's conviction	Principal's sentence	Year Sentenced	County	Case Number	Sex	Race	Age Category	If a co-defendant, charges faced	Convicted offenses	Pronounced confinement (in months)
8	Principal	Murder in the 2nd Degree (Without Intent) (While Committing a Felony) (Aid/Abet)	128.00	2019	Dakota	19HACR182459	M	Black	Under 18		Mur 2 sev=10	128.00
8	Unknown	Murder in the 2nd Degree (Without Intent) (While Committing a Felony) (Aid/Abet)	128.00	2019	Dakota	19HAJV18512	Unknown	Unknown	Unknown	Unknown	Unknown	Unknown
9	Principal	Murder-1st Degree - With Intent - While Committing a Felony (Aid/Abet); Murder-1st Degree - With Intent - While Committing a Felony (Aid/Abet); Murder - 2nd Degree - With Intent-Not Premeditated (Aid/Abet); Aggravated Robbery-1st Degree (Aid/Abet); Aggravated Robbery-1st Degree (Aid/Abet); Aggravated Robbery-1st Degree (Aid/Abet); Aggravated Robbery-1st Degree (Aid/Abet); Burglary-1st Degree-Dwelling-Occupied-Non-Accomplice Present (Aid/Abet)	659.00	2019	Scott	70CR1621174	M	Black	26-30		Murder 1	Life

Cohort Number	Role	Principal's conviction	Principal's sentence	Year Sentenced	County	Case Number	Sex	Race	Age Category	If a co-defendant, charges faced	Convicted offenses	Pronounced confinement (in months)
9	Planning the burglary; threatening the victim	Murder-1st Degree - With Intent - While Committing a Felony (Aid/Abet); Murder-1st Degree - With Intent - While Committing a Felony (Aid/Abet); Murder - 2nd Degree - With Intent-Not Premeditated (Aid/Abet); Aggravated Robbery-1st Degree (Aid/Abet); Aggravated Robbery-1st Degree (Aid/Abet); Aggravated Robbery-1st Degree (Aid/Abet); Aggravated Robbery-1st Degree (Aid/Abet); Burglary-1st Deg-Dwelling-Occupied-Non-Accomplice Present (Aid/Abet)	659.00	2018	Scott	70CR1621176	M	Black	26-30		Murder 1	Life
10	Principal	Aid & Abet Attempted Murder-1st Degree - With Intent - While Committing a Felony; Assault-3rd Degree-Substantial Bodily Harm; Kidnapping-To Commit Great Bodily Harm/Terrorize; Aid & Abet Attempted Murder - 2nd Degree - With Intent-Not Premeditated	210.00	2019	St. Louis	69DUCR18706	F	Am Ind	31-40		Murder 1	210.00
10	Principal	Aid and Abet Attempted Murder-1st Degree-With Intent-While Committing a Felony; Assault-3rd Degree-Substantial Bodily Harm; Aid & Abet Kidnapping;	230.00	2019	St. Louis	69DUCR18753	M	White	31-40		Murder 1	230.00

Cohort Number	Role	Principal's conviction	Principal's sentence	Year Sentenced	County	Case Number	Sex	Race	Age Category	If a co-defendant, charges faced	Convicted offenses	Pronounced confinement (in months)
11	Principal	Murder - 2nd Degree - Without Intent - While Committing a Felony (Aid/Abet )	210.00	2018	Hennepin	27CR1714774	M	Am Ind	41-50		Mur 2 sev=10	210.00
12	Principal	Murder - 2nd Degree - With Intent - While Committing a Felony	210	2018	Hennepin	27CR176558	M	Black	41-50		Mur 2 sev=10	195.00
13	Principal	Murder - 2nd Degree - Without Intent - While Committing a Felony	170.00	2018	Ramsey	62CR175249	M	Black	26-30		Mur 2 sev=10	170.00
13	Planning the burglary; acting as a distraction	Murder - 2nd Degree - Without Intent - While Committing a Felony	170.00	2018	Ramsey	62CR173422	M	Black	22-25		Mur 2 sev=10	159.00
13	Lookout; acting as a distraction	Murder - 2nd Degree - Without Intent - While Committing a Felony	170.00	2018	Ramsey	62CR18219	M	White	18-21		Mur 2 sev=10	60.00
13	Planning robbery (inconclusive if defendant knew about the plan to kill the victim)	Murder - 2nd Degree - Without Intent - While Committing a Felony	170.00	2018	Ramsey	62CR175250	M	Black	18-21		Mur 2 sev=10	141.00
14	Principal	Murder - 1st Degree - With Intent - While Committing a Felony	LIFE	2018	Ramsey	62CR17691	M	White	41-50		Murder 1	Life
14	Unknown	Murder - 1st Degree - With Intent - While Committing a Felony	LIFE	2018	Ramsey	62CR182509	M	Unknown	22-25	Dismissed	Dismissed	
14	Unknown	Murder - 1st Degree - With Intent - While Committing a Felony	LIFE	2018	Ramsey	62CR185767	F	Unknown	31-40	Dismissed	Dismissed	
14	Unknown	Murder - 1st Degree - With Intent - While Committing a Felony	LIFE	2018	Ramsey	62CR186479	M	Unknown	26-30	Dismissed	Dismissed	

Cohort Number	Role	Principal's conviction	Principal's sentence	Year Sentenced	County	Case Number	Sex	Race	Age Category	If a co-defendant, charges faced	Convicted offenses	Pronounced confinement (in months)
14	Unknown	Murder - 1st Degree - With Intent - While Committing a Felony	LIFE	2018	Ramsey	62CR186555	M	Unknown	26-30	Dismissed	Dismissed	
15	Principal	Murder in the Second Degree (While Committing a Felony)	162.00	2018	Anoka	2CR177320	M	White	18-21		Mur 2 sev=10	162.00
15	Unknown	Murder in the Second Degree (While Committing a Felony)	162.00	2018	Anoka	02CR181381	M	Unknown	18-21	Aiding an Offender - Accomplice After the Fact Manslaughter - 1st Degree - While Committing Gross Misdemeanor/Misdemeanor with Violence. (Aid/Abet)	Manslaughter - 1st Degree - While Committing Gross Misdemeanor/Misdemeanor with Violence. (Aid/Abet)	87.00
15	Unknown	Murder in the Second Degree (While Committing a Felony)	162.00	2018	Anoka	02CR184627	M	Unknown	Under 18	Aid/Abet Aggravated Robbery-1st Degree (Aid/Abet)	Aid/Abet Aggravated Robbery-1st Degree (Aid/Abet)	Probation
16	Participated in burglaries and car theft	Aggravated Robbery-1st Degree (Aid/Abet); Murder - 2nd Degree - With Intent-Not Premeditated (Aid/Abet); Burglary-1st Deg-Dwelling-Occupied-Non-Accomplice Present (Aid/Abet); Burglary-1st Deg-Poss Dangerous Weapon/Explosive (Aid/Abet); Murder - 2nd Degree - Without Intent - While Committing a Felony (Aid/Abet)	510.00	2017	Hennepin	27CR1534800	M	Black	22-25		Mur 2 sev=10	180.00

Cohort Number	Role	Principal's conviction	Principal's sentence	Year Sentenced	County	Case Number	Sex	Race	Age Category	If a co-defendant, charges faced	Convicted offenses	Pronounced confinement (in months)
16	Principal	Aggravated Robbery-1st Degree (Aid/Abet); Murder - 2nd Degree - With Intent-Not Premeditated (Aid/Abet); Burglary-1st Deg-Dwelling-Occupied-Non-Accomplice Present (Aid/Abet); Burglary-1st Deg-Poss Dangerous Weapon/Explosive (Aid/Abet); Murder - 2nd Degree - Without Intent - While Committing a Felony (Aid/Abet)	510.00	2017	Hennepin	27CR1534797	M	Black	26-30		Mur 2 sev=10	153.00
16	Principal	Aggravated Robbery-1st Degree (Aid/Abet); Murder - 2nd Degree - With Intent-Not Premeditated (Aid/Abet); Burglary-1st Deg-Dwelling-Occupied-Non-Accomplice Present (Aid/Abet); Burglary-1st Deg-Poss Dangerous Weapon/Explosive (Aid/Abet); Murder - 2nd Degree - Without Intent - While Committing a Felony (Aid/Abet)	510.00	2017	Ramsey	62CR158342	M	Black	22-25		Mur 2 sev=10	180.00
17	Getaway driver	Aid/Abet Murder - 2nd Degree - With Intent-Not Premeditated (Aid/Abet - GOC)	641.00	2017	Ramsey	62CR162156	M	White	26-30		Mur 2 sev=10	153.00

Cohort Number	Role	Principal's conviction	Principal's sentence	Year Sentenced	County	Case Number	Sex	Race	Age Category	If a co-defendant, charges faced	Convicted offenses	Pronounced confinement (in months)
17	Unknown	Aid/Abet Murder - 2nd Degree - With Intent-Not Premeditated (Aid/Abet - GOC)	641.00	2017	Ramsey	62CR162168	M	Unknown	26-30	Aid/Abet Murder - 2nd Degree - With Intent-Not Premeditated (Aid/Abet - GOC) Aid/Abet Murder - 2nd Degree - Without Intent - While Committing a Felony (Aid/Abet - GOC) Aid/Abet Murder - 2nd Degree - Without Intent - While Committing a Felony (Aid/Abet - GOC); Aid/Abet Murder - 2nd Degree - With Intent - Not Premeditated (Aid/Abet - GOC); Aid/Abet Murder - 2nd Degree - Without Intent - While Committing a Felony (Aid/Abet - GOC); Aid/Abet Murder - 2nd Degree - With Intent - Not Premeditated (Aid/Abet - GOC); Aid/Abet Murder - 2nd Degree - Without Intent - While Committing a Felony (Aid/Abet - GOC); Aid/Abet Murder - 1st Degree - Premeditated (Aid/Abet - GOC); Aid/Abet Murder - 2nd Degree - With Intent - Not Premeditated (Aid/Abet - GOC); Aid/Abet Murder - 2nd Degree - Without Intent - While Committing a Felony (Aid/Abet - GOC)	Aid/Abet Murder - 2nd Degree - Without Intent - While Committing a Felony (Aid/Abet - GOC); Aid/Abet Murder - 2nd Degree - With Intent - Not Premeditated (Aid/Abet - GOC); Aid/Abet Murder - 2nd Degree - Without Intent - While Committing a Felony (Aid/Abet - GOC)	696.00

Cohort Number	Role	Principal's conviction	Principal's sentence	Year Sentenced	County	Case Number	Sex	Race	Age Category	If a co-defendant, charges faced	Convicted offenses	Pronounced confinement (in months)
17	Principal	Aid/Abet Murder - 2nd Degree - With Intent-Not Premeditated (Aid/Abet - GOC)	641.00	2017	Ramsey	62CR162169	M	Unknown	31-40	Aid/Abet Murder - 2nd Degree - With Intent-Not Premeditated (Aid/Abet - GOC)Aid/Abet Murder - 2nd Degree - Without Intent - While Committing a Felony (Aid/Abet - GOC)Aid/Abet Murder - 2nd Degree - With Intent-Not Premeditated (Aid/Abet - GOC); Aid/Abet Murder - 2nd Degree - With Intent-Not Premeditated (Aid/Abet - GOC)Aid/Abet Murder - 1st Degree - Premeditated (Aid/Abet - GOC)Aid/Abet Murder - 2nd Degree - With Intent-Not Premeditated (Aid/Abet - GOC) Aid/Abet Murder - 2nd Degree - Without Intent - While Committing a Felony (Aid/Abet - GOC)	Aid/Abet Murder - 2nd Degree - With Intent-Not Premeditated (Aid/Abet - GOC); Aid/Abet Murder - 2nd Degree - With Intent-Not Premeditated (Aid/Abet - GOC)	641.00
18	Principal	Murder - 2nd Degree - Without Intent - While Committing a Felony. Aggravated Robbery - 1st Degree	249 (Bobo), 360 (Calloway)	2017	Ramsey	62CR166926	M	Black	22-25		Mur 2 sev=10	180.00

Cohort Number	Role	Principal's conviction	Principal's sentence	Year Sentenced	County	Case Number	Sex	Race	Age Category	If a co-defendant, charges faced	Convicted offenses	Pronounced confinement (in months)
18	Principal	Murder - 2nd Degree - Without Intent - While Committing a Felony. Aggravated Robbery - 1st Degree	249 (Bobo), 360 (Calloway)	2017	Ramsey	62CR166907	M	Black	31-40		Mur 2 sev=10	228.00
18	Planning the robbery; getting victims to location	Murder - 2nd Degree - Without Intent - While Committing a Felony. Aggravated Robbery - 1st Degree	249 (Bobo), 360 (Calloway)	2017	Ramsey	62CR166909	F	Black	26-30		Mur 2 sev=10	141.00
19	Principal	Murder - 2nd Degree - Without Intent - While Committing a Felony	204.00	2017	Ramsey	62CR17292	M	Black	41-50		Mur 2 sev=10	204.00
20	Principal	Smaller and Smith: Murder - 2nd Degree - Without Intent - While Committing a Felony	Smaller: 252.00, Smith: 204.00	2017	Ramsey	62CR158365	M	Black	22-25		Mur 2 sev=10	252.00
20	Principal	Smaller and Smith: Murder - 2nd Degree - Without Intent - While Committing a Felony	Smaller: 252.00, Smith: 204.00	2016	Ramsey	62CR158366	M	Black	22-25		Mur 2 sev=10	204.00
21	Participant in intimidation	Murder - 2nd Degree - With Intent-Not Premeditated (Aid/Abet)	391.00	2017	Steele	74CR161393	M	White	31-40		Mur 2 sev=10	150.00

Cohort Number	Role	Principal's conviction	Principal's sentence	Year Sentenced	County	Case Number	Sex	Race	Age Category	If a co-defendant, charges faced	Convicted offenses	Pronounced confinement (in months)
21	Principal	Murder - 2nd Degree - With Intent-Not Premeditated (Aid/Abet)	391.00	2017	Steele	74CR161392	M	Unknown	22-25	Murder-1st Degree - With Intent - While Committing a Felony (Aid/Abet - GOC)Murder - 2nd Degree - With Intent-Not Premeditated (Aid/Abet - GOC)Murder - 2nd Degree - With Intent-Not Premeditated (Aid/Abet - GOC)Murder - 2nd Degree - Without Intent - While Committing a Felony (Aid/Abet - GOC) Possess Ammo/Any Firearm - User of Controlled Substance Murder in the 2nd Degree (Not applicable - GOC)	Murder - 2nd Degree - With Intent-Not Premeditated (Aid/Abet - GOC)	391.00
22	Principal	Murder - 2nd Degree - Without Intent - While Committing a Felony (Aid/Abet)	204.00	2016	Dakota	19HACR142166	M	Black	31-40		Mur 2 sev=10	204.00
22	Unknown	Murder - 2nd Degree - Without Intent - While Committing a Felony (Aid/Abet)	204.00	2016	Dakota	19HACR142259	F	Unknown	22-25	Murder - 2nd Degree - With Intent-Not Premeditated (Aid/Abet - GOC)Aiding an Offender - Accomplice After the Fact Aiding an Offender - Accomplice After the Fact	Aiding an Offender - Accomplice After the Fact	180.00

Cohort Number	Role	Principal's conviction	Principal's sentence	Year Sentenced	County	Case Number	Sex	Race	Age Category	If a co-defendant, charges faced	Convicted offenses	Pronounced confinement (in months)
23	Principal	Murder - 2nd Degree - Without Intent - While Committing a Felony	180	2016	Hennepin	27CR1526909	M	Black	18-21		Mur 2 sev=10	180.00
24	Provided weapon	Murder - 2nd Degree - With Intent-Not Premeditated	300	2016	Hennepin	27CR1517363	M	White	22-25		Mur 2 sev=10	108.00
24	Principal	Murder - 2nd Degree - With Intent-Not Premeditated	300	2016	Hennepin	27CR1517362	F	Unknown	18-21	Murder - 2nd Degree - With Intent-Not Premeditated (Aid/Abet - GOC)	Murder - 2nd Degree - With Intent-Not Premeditated (Aid/Abet - GOC)	300.00
25	Co-attacker	NL	NL	2016	Hennepin	27CR151460	M	Black	22-25		Mur 2 sev=10	90.00
25	Planning and carrying out the robbery	NL	NL	2016	Hennepin	27CR1327739	M	Black	18-21		Mur 2 sev=10	82.50
26	Principal	Murder - 1st Degree - With Intent-While Committing a Felony	LIFE	2016	Hennepin	27CR157221	M	Black	Under 18		Murder 1	Life
26	Unknown	Murder - 1st Degree - With Intent-While Committing a Felony	LIFE	2016	Hennepin	27CR1434787	M	Unknown	26-30	Aiding an Offender - Accomplice After the Fact	Aiding an Offender - Accomplice After the Fact	92.00
27	Principal	Murder in the Second Degree; Murder in the Second Degree; Burglary in the First Degree; Burglary in the First Degree; Burglary in the First Degree; Arson in the First Degree; Arson in the Second Degree, Liability for Crimes of Another	846.00	2016	Lyon	42CR15492	M	White	18-21		Murder 1	Life

Cohort Number	Role	Principal's conviction	Principal's sentence	Year Sentenced	County	Case Number	Sex	Race	Age Category	If a co-defendant, charges faced	Convicted offenses	Pronounced confinement (in months)
28	Principal	Attempted Murder - 1st Degree - With Intent - While Committing a felony; Aid/Abet Attempted Murder - 1st Degree - With Intent-While Committing a Felony; Assault in the First Degree (Great Bodily Harm); Aid/Abet Assault in the First Degree (Great Bodily Harm); Attempted Aggravated Robbery in the First Degree; Aid/Abet Attempted Aggravated Robbery in the First Degree	274.00	2015	Anoka	2CR145492	M	Black	22-25		Murder 1	274.00

Cohort Number	Role	Principal's conviction	Principal's sentence	Year Sentenced	County	Case Number	Sex	Race	Age Category	If a co-defendant, charges faced	Convicted offenses	Pronounced confinement (in months)
28	Unknown	Attempted Murder - 1st Degree - With Intent - While Committing a felony; Aid/Abet Attempted Murder - 1st Degree - With Intent-While Committing a Felony; Assault in the First Degree (Great Bodily Harm); Aid/Abet Assault in the First Degree (Great Bodily Harm); Attempted Aggravated Robbery in the First Degree; Aid/Abet Attempted Aggravated Robbery in the First Degree	274.00	2015	Anoka	02CR145496	M	Unknown	18-21	Attempt to Commit Murder-1st Degree - With Intent - While Committing a Felony (Attempt to Commit - GOC)Attempt to Commit Murder - 2nd Degree - With Intent-Not Premeditated (Attempt to Commit - GOC)Attempt to Commit Murder-1st Degree - With Intent - While Committing a Felony (Attempt to Commit - GOC); Attempt to Commit Murder-1st Degree - With Intent - While Committing a Felony (Attempt to Commit - GOC)Attempt to Commit Murder - 2nd Degree - With Intent-Not Premeditated (Attempt to Commit - GOC)Assault-1st Degree-Great Bodily Harm Aid/Abet Assault-1st Degree-Great Bodily Harm (Aid/Abet - GOC)	Attempt to Commit Murder-1st Degree - With Intent - While Committing a Felony (Attempt to Commit - GOC); Attempt to Commit Murder-1st Degree - With Intent - While Committing a Felony (Attempt to Commit - GOC)	314.00 & 15 days

Cohort Number	Role	Principal's conviction	Principal's sentence	Year Sentenced	County	Case Number	Sex	Race	Age Category	If a co-defendant, charges faced	Convicted offenses	Pronounced confinement (in months)
28	Unknown	Attempted Murder - 1st Degree - With Intent - While Committing a felony; Aid/Abet Attempted Murder - 1st Degree - With Intent- While Committing a Felony; Assault in the First Degree (Great Bodily Harm); Aid/Abet Assault in the First Degree (Great Bodily Harm); Attempted Aggravated Robbery in the First Degree; Aid/Abet Attempted Aggravated Robbery in the First Degree	274.00	2015	Anoka	02CR145498	F	Unknown	22-25	Assault-1st Degree-Great Bodily Harm Aggravated Robbery-1st Degree (Attempt to Commit - GOC) Assault-1st Degree-Great Bodily Harm; Assault-1st Degree-Great Bodily Harm Aggravated Robbery-1st Degree (Attempt to Commit - GOC)	Assault-1st Degree-Great Bodily Harm; Assault-1st Degree-Great Bodily Harm	177.00
28	Unknown	Attempted Murder - 1st Degree - With Intent - While Committing a felony; Aid/Abet Attempted Murder - 1st Degree - With Intent- While Committing a Felony; Assault in the First Degree (Great Bodily Harm); Aid/Abet Assault in the First Degree (Great Bodily Harm); Attempted Aggravated Robbery in the First Degree; Aid/Abet Attempted Aggravated Robbery in the First Degree	274.00	2015	Anoka	02CR145499	F	Unknown	22-25	Assault-1st Degree-Great Bodily Harm Aggravated Robbery-1st Degree (Attempt to Commit - GOC) Assault-1st Degree-Great Bodily Harm; Assault-1st Degree-Great Bodily Harm Aggravated Robbery-1st Degree (Attempt to Commit - GOC)	Assault-1st Degree-Great Bodily Harm; Assault-1st Degree-Great Bodily Harm	177.00

Cohort Number	Role	Principal's conviction	Principal's sentence	Year Sentenced	County	Case Number	Sex	Race	Age Category	If a co-defendant, charges faced	Convicted offenses	Pronounced confinement (in months)
28	Unknown	Attempted Murder - 1st Degree - With Intent - While Committing a felony; Aid/Abet Attempted Murder - 1st Degree - With Intent - While Committing a Felony; Assault in the First Degree (Great Bodily Harm); Aid/Abet Assault in the First Degree (Great Bodily Harm); Attempted Aggravated Robbery in the First Degree; Aid/Abet Attempted Aggravated Robbery in the First Degree	274.00	2015	Anoka	02CV155789	Unknown	Unknown	Unknown	Unknown	Unknown	Unknown
29	Principal	Aiding and Abetting, Attempt, Dangerous Weapon - Firearm Murder - 1st Degree - With Intent - While Committing a Felony; Attempt, Dangerous Weapon - Firearm Murder - 2nd Degree - With Intent - Not Premeditated; Aiding and Abetting, Dangerous Weapon - Firearm Aggravated Robbery - 1st Degree; Dangerous Weapon - Firearm Assault - 2nd Degree - Dangerous Weapon; Dangerous Weapon - Firearm Assault - 2nd Degree - Dangerous Weapon	275.00	2015	Stearns	73CR145802	M	Black	22-25		Murder 1	164.00

Cohort Number	Role	Principal's conviction	Principal's sentence	Year Sentenced	County	Case Number	Sex	Race	Age Category	If a co-defendant, charges faced	Convicted offenses	Pronounced confinement (in months)
29	Participated in robbery	Aiding and Abetting, Attempt, Dangerous Weapon - Firearm Murder - 1st Degree - With Intent - While Committing a Felony; Attempt, Dangerous Weapon - Firearm Murder - 2nd Degree - With Intent - Not Premeditated; Aiding and Abetting, Dangerous Weapon - Firearm Aggravated Robbery - 1st Degree; Dangerous Weapon - Firearm Assault - 2nd Degree - Dangerous Weapon; Dangerous Weapon - Firearm Assault - 2nd Degree - Dangerous Weapon	275.00	2015	Stearns	73CR145795	M	Black	18-21		Murder 1	170.00
29	Unknown	Aiding and Abetting, Attempt, Dangerous Weapon - Firearm Murder - 1st Degree - With Intent - While Committing a Felony; Attempt, Dangerous Weapon - Firearm Murder - 2nd Degree - With Intent - Not Premeditated; Aiding and Abetting, Dangerous Weapon - Firearm Aggravated Robbery - 1st Degree; Dangerous Weapon - Firearm Assault - 2nd Degree - Dangerous Weapon; Dangerous Weapon - Firearm Assault - 2nd Degree - Dangerous Weapon	275.00	2015	Stearns	73CR145793	M	Unknown	18-21	Aiding an Offender to Avoid Arrest-Harbor/Conceal Aid/Abet - Aggravated Robbery-1st Degree (Aid/Abet - GOC)	Aid/Abet - Aggravated Robbery-1st Degree (Aid/Abet - GOC)	Probation

Cohort Number	Role	Principal's conviction	Principal's sentence	Year Sentenced	County	Case Number	Sex	Race	Age Category	If a co-defendant, charges faced	Convicted offenses	Pronounced confinement (in months)
30	Participant in attempted robbery	Murder - 2nd Degree - With Intent-Not Premeditated (Aid/Abet)	278.00	2014	Dakota	19HACR133070	M	Black	Under 18		Mur 2 sev=10	128.00
30	Participant in attempted robbery	Murder - 2nd Degree - With Intent-Not Premeditated (Aid/Abet)	278.00	2014	Dakota	19HACR133077	M	Hispanic	Under 18		Mur 2 sev=10	128.00
30	Principal	Murder - 2nd Degree - With Intent-Not Premeditated (Aid/Abet)	278.00	2014	Dakota	19HACR133052	M	Unknown	18-21	Murder - 2nd Degree - With Intent-Not Premeditated (Aid/Abet - GOC) Murder - 2nd Degree - Without Intent - While Committing a Felony (Aid/Abet - GOC) Murder - 2nd Degree - With Intent-Not Premeditated (Aid/Abet - GOC)	Murder - 2nd Degree - With Intent-Not Premeditated (Aid/Abet - GOC)	278.00
31	Principal	Murder - 1st Degree - With Intent - While Committing a Felony; Murder - 1st Degree - With Intent - While Committing a Felony; Assault - 2nd Degree (Aid/Abet)	LIFE	2014	Hennepin	27CR1322245	M	Black	22-25		Murder 1	Life

Cohort Number	Role	Principal's conviction	Principal's sentence	Year Sentenced	County	Case Number	Sex	Race	Age Category	If a co-defendant, charges faced	Convicted offenses	Pronounced confinement (in months)
31	Unknown	Murder - 1st Degree - With Intent - While Committing a Felony; Murder - 1st Degree - With Intent - While Committing a Felony; Assault - 2nd Degree (Aid/Abet)	LIFE	2014	Hennepin	27CR1322246	M	Unknown	22-25	Murder-2nd Degree (Attempt to Commit - GOC)Murder-1st Degree - With Intent - While Committing a Felony Murder - 2nd Degree - Without Intent - While Committing a Felony; Murder-2nd Degree (Attempt to Commit - GOC); Aggravated Robbery-1st DegreeMurder-2nd Degree (Attempt to Commit - GOC)Assault-2nd Degree (Aid/Abet - GOC)Aggravated Robbery-1st Degree	Murder - 2nd Degree - Without Intent - While Committing a Felony; Murder-2nd Degree (Attempt to Commit - GOC); Aggravated Robbery-1st Degree	545.00
32	Planning and setting up the robbery	Murder - 2nd Degree (Aid/Abet)	100.00	2014	Hennepin	27CR1413127	F	Hispanic	31-40		Mur 2 sev=10	100.00
32	Principal	Murder - 2nd Degree (Aid/Abet)	100.00	2014	Hennepin	27CR1325523	M	Black	22-25		Mur 2 sev=10	100.00

Cohort Number	Role	Principal's conviction	Principal's sentence	Year Sentenced	County	Case Number	Sex	Race	Age Category	If a co-defendant, charges faced	Convicted offenses	Pronounced confinement (in months)
32	Unknown	Murder - 2nd Degree (Aid/Abet)	100.00	2014	Hennepin	27CR1325524	M	Unknown	31-40	Murder - 2nd Degree - Without Intent - While Committing a Felony Aggravated Robbery-1st Degree (Attempt to Commit - GOC)Murder - 2nd Degree - Without Intent - While Committing a Felony; Aggravated Robbery-1st Degree (Attempt to Commit - GOC)	Murder - 2nd Degree - Without Intent - While Committing a Felony; Aggravated Robbery-1st Degree (Attempt to Commit - GOC)	195.00
33	Principal	Murder - 2nd Degree - Without Intent - While Committing a Felony	172.00	2014	Hennepin	27CR1327810	F	Black	26-30		Mur 2 sev=10	172.00
34	Unknown	Unclear	Unclear	2015	Ramsey	62CR147884	M	Hispanic	18-21		Mur 2 sev=10	210.00
35	Unknown	Unclear	Unclear	2014	Kandiyohi	34CR13741	M	White	Under 18		Murder 1	Life
35	Unknown	Unclear	Unclear	2014	Kandiyohi	34CR13596	M	Unknown	18-21	Murder-1st Degree - With Intent - While Committing a Felony Murder - 2nd Degree - With Intent-Not Premeditated Murder -1st Degree - Premeditated	Murder -1st Degree - Premeditated	LIFE
36	Principal	Aid/Abet Murder - 2nd Degree - Without Intent - While Committing a Felony (Aid/Abet)	198.00	2014	Ramsey	62CR141708	M	Am Ind	41-50		Mur 2 sev=10	198.00
36	Unknown	Aid/Abet Murder - 2nd Degree - Without Intent - While Committing a Felony (Aid/Abet)	198.00	2014	Ramsey	62CR147005	M	Unknown	41-50	Dismissed	Dismissed	

Cohort Number	Role	Principal's conviction	Principal's sentence	Year Sentenced	County	Case Number	Sex	Race	Age Category	If a co-defendant, charges faced	Convicted offenses	Pronounced confinement (in months)
36	Unknown	Aid/Abet Murder - 2nd Degree - Without Intent - While Committing a Felony (Aid/Abet)	198.00	2014	Ramsey	62CR147012	F	Unknown	31-40	Dismissed	Dismissed	
36	Unknown	Aid/Abet Murder - 2nd Degree - Without Intent - While Committing a Felony (Aid/Abet)	198.00	2014	Ramsey	62CR147120	M	Unknown	51+	Dismissed	Dismissed	
37	Planning and setting up the murder	Murder -1st Degree - Premeditated; Murder-1st Degree - With Intent - While Committing a Felony; Murder-1st Degree - With Intent - While Committing a Felony; Aggravated Robbery-1st Degree	LIFE	2014	Scott	70CR1320740	M	White	31-40		Mur 2 sev=10	240.00

Cohort Number	Role	Principal's conviction	Principal's sentence	Year Sentenced	County	Case Number	Sex	Race	Age Category	If a co-defendant, charges faced	Convicted offenses	Pronounced confinement (in months)
37	Principal	Murder -1st Degree - Premeditated; Murder-1st Degree - With Intent - While Committing a Felony; Murder-1st Degree - With Intent - While Committing a Felony; Aggravated Robbery-1st Degree	LIFE	2014	Scott	70CR1327020	M	Unknown	22-25	Murder-1st Degree - With Intent - While Committing a Felony (Not applicable - GOC) Murder-1st Degree - With Intent - While Committing a Felony (Not applicable - GOC) Murder -1st Degree - Premeditated (Not applicable - GOC); Murder-1st Degree - With Intent - While Committing a Felony (Not applicable - GOC); Murder-1st Degree - With Intent - While Committing a Felony (Not applicable - GOC); Aggravated Robbery-1st Degree (Not applicable - GOC)Aggravated Robbery-1st Degree (Not applicable - GOC)	Murder -1st Degree - Premeditated (Not applicable - GOC); Murder-1st Degree - With Intent - While Committing a Felony (Not applicable - GOC); Murder-1st Degree - With Intent - While Committing a Felony (Not applicable - GOC); Aggravated Robbery-1st Degree (Not applicable - GOC)	LIFE
38	Planning and carrying out the robbery	Murder - 2nd Degree - With Intent-Not Premeditated (Aid/Abet)	306.00	2014	Scott	70CR138328	M	Black	31-40		Mur 2 sev=10	216.00

Cohort Number	Role	Principal's conviction	Principal's sentence	Year Sentenced	County	Case Number	Sex	Race	Age Category	If a co-defendant, charges faced	Convicted offenses	Pronounced confinement (in months)
38	Unknown	Murder - 2nd Degree - With Intent-Not Premeditated (Aid/Abet)	306.00	2014	Scott	70CR1313827	M	Unknown	31-40	Murder - 2nd Degree - With Intent-Not Premeditated (Aid/Abet - GOC) Aggravated Robbery-1st Degree (Aid/Abet - GOC) Murder - 2nd Degree - With Intent-Not Premeditated (Aid/Abet - GOC); Assault-2nd Degree-Dangerous Weapon-Substantial Bodily Harm (Aid/Abet - GOC); Assault-2nd Degree-Dangerous Weapon-Substantial Bodily Harm (Aid/Abet - GOC) Assault-2nd Degree-Dangerous Weapon-Substantial Bodily Harm (Aid/Abet - GOC) Assault-2nd Degree-Dangerous Weapon-Substantial Bodily Harm (Aid/Abet - GOC) Possess Pistol/Assault Weapon-Conviction or Adjudicated Delinquent for Crime of Violence (Not applicable - GOC)	Murder - 2nd Degree - With Intent-Not Premeditated (Aid/Abet - GOC); Assault-2nd Degree-Dangerous Weapon-Substantial Bodily Harm (Aid/Abet - GOC); Assault-2nd Degree-Dangerous Weapon-Substantial Bodily Harm (Aid/Abet - GOC)	559.00

Cohort Number	Role	Principal's conviction	Principal's sentence	Year Sentenced	County	Case Number	Sex	Race	Age Category	If a co-defendant, charges faced	Convicted offenses	Pronounced confinement (in months)
38	Unknown	Murder - 2nd Degree - With Intent-Not Premeditated (Aid/Abet)	306.00	2014	Scott	70CR1317505	F	Unknown	26-30	Aiding an Offender - Accomplice After the Fact (Not applicable - GOC)	Aiding an Offender - Accomplice After the Fact (Not applicable - GOC)	36.00
38	Principal	Murder - 2nd Degree - With Intent-Not Premeditated (Aid/Abet)	306.00	2014	Scott	70CR138297	M	Unknown	26-30	Murder - 2nd Degree - With Intent-Not Premeditated (Aid/Abet - GOC)Aggravated Robbery-1st Degree (Aid/Abet - GOC)Murder - 2nd Degree - With Intent-Not Premeditated (Aid/Abet - GOC)Assault-2nd Degree-Dangerous Weapon-Substantial Bodily Harm (Aid/Abet - GOC)Assault-2nd Degree-Dangerous Weapon-Substantial Bodily Harm (Aid/Abet - GOC)	Murder - 2nd Degree - With Intent-Not Premeditated (Aid/Abet - GOC)	306.00
38	Unknown	Murder - 2nd Degree - With Intent-Not Premeditated (Aid/Abet)	306.00	2014	Scott	70CR1414947	F	Unknown	26-30	Perjury (Not applicable - GOC) Aiding an Offender - Accomplice After The Fact (Not applicable - GOC)	Aiding an Offender - Accomplice After The Fact (Not applicable - GOC)	42.00

Cohort Number	Role	Principal's conviction	Principal's sentence	Year Sentenced	County	Case Number	Sex	Race	Age Category	If a co-defendant, charges faced	Convicted offenses	Pronounced confinement (in months)
39	Principal	Murder - 2nd Degree - With Intent-Not Premeditated (Aid/Abet); Dangerous Weapon Non-Firearm Assault-1st Degree-Great Bodily Harm (Aid/Abet); Kidnapping-To Commit Great Bodily Harm/Terrorize	302.00	2014	Washington	82CR141064	M	Asian	31-40		Mur 2 sev=10	75.00
40	Getaway driver; provided weapon	Murder - 2nd Degree - With Intent-Not Premeditated	360.00	2014	Wright	86CR135120	M	White	18-21		Mur 2 sev=10	150.00
40	Participated in robbery; beat victim	Murder - 2nd Degree - With Intent-Not Premeditated	360.00	2014	Wright	86CR135190	M	Black	18-21		Mur 2 sev=10	86.00
40	Participated in robbery; cleaned up evidence	Murder - 2nd Degree - With Intent-Not Premeditated	360.00	2014	Wright	86CR135194	M	Asian	18-21		Mur 2 sev=10	180.00
41	Principal	Murder - 2nd Degree - Without Intent - While Committing a Felony	128	2013	Hennepin	27CR132851	M	Black	Under 18		Mur 2 sev=10	128.00
41	Principal	Murder - 2nd Degree - Without Intent - While Committing a Felony	128	2013	Hennepin	27CR1241897	M	Black	22-25		Mur 2 sev=10	128.00
42	Principal	Murder-1st Degree - With Intent - While Committing a Felony	LIFE	2013	Hennepin	27CR12185	M	Black	26-30		Murder 1	Life
43	Principal	Murder - 2nd Degree - Without Intent - While Committing a Felony	128	2013	Hennepin	27CR1221478	M	Black	22-25		Mur 2 sev=10	128.00
43	Co-attacker	Murder - 2nd Degree - Without Intent - While Committing a Felony	150.00	2012	Hennepin	27CR1231212	M	Black	Under 18		Mur 2 sev=10	150.00

Cohort Number	Role	Principal's conviction	Principal's sentence	Year Sentenced	County	Case Number	Sex	Race	Age Category	If a co-defendant, charges faced	Convicted offenses	Pronounced confinement (in months)
44	Principal	Murder - 2nd Degree - Without Intent - While Committing a Felony	216	2013	Roseau	68CR12946	F	White	22-25		Mur 2 sev=10	216.00
45	Co-attacker	Murder - 2nd Degree - Without Intent - While Committing a Felony (Boyd's conviction)	156.00 (Boyd's sentence)	2012	Mille Lacs	48CR101656	M	Am Ind	18-21		Mur 2 sev=10	255.00
45	Principal	Murder - 2nd Degree - Without Intent - While Committing a Felony (Boyd's conviction)	156.00 (Boyd's sentence)	2012	Mille Lacs	48CR101653	M	Unknown	22-25	Murder - 2nd Degree - Without Intent - While Committing a Felony Murder - 2nd Degree - Without Intent - While Committing a Felony	Murder - 2nd Degree - Without Intent - While Committing a Felony	156.00
46	Principal	Murder - 2nd Degree - Without Intent - While Committing a Felony	180	2011	Hennepin	27CR1121548	M	Black	18-21		Mur 2 sev=10	180.00
47	Getaway driver	Murder - 2nd Degree - With Intent-Not Premeditated	396.00	2011	Hennepin	27CR0949756	F	Black	51+		Murder 1	Life
47	Principal	Murder - 2nd Degree - With Intent-Not Premeditated	396.00	2011	Hennepin	27CR0949054	M	Unknown	31-40	Attempted Murder in the First Degree (Aid/Abet - GOC) Murder - 2nd Degree - With Intent-Not Premeditated	Murder - 2nd Degree - With Intent-Not Premeditated	396.00
48	Principal	Murder-1st Degree - With Intent - While Committing a Felony	LIFE	2011	Hennepin	27CR101513	M	Black	31-40		Murder 1	Life
49	Principal	Murder - 2nd Degree - Without Intent - While Committing a Felony	150	2011	Hennepin	27CR1030822	M	Black	18-21		Mur 2 sev=10	150.00
50	Chased and kicked victim	Murder - 2nd Degree - With Intent-Not Premeditated (Aid/Abet - GOC)	261.00	2011	Scott	70CR1022646	M	Hispanic	Under 18		Mur 2 sev=10	150.00

Cohort Number	Role	Principal's conviction	Principal's sentence	Year Sentenced	County	Case Number	Sex	Race	Age Category	If a co-defendant, charges faced	Convicted offenses	Pronounced confinement (in months)
50	Chased and kicked victim	Murder - 2nd Degree - With Intent-Not Premeditated (Aid/Abet - GOC)	261.00	2011	Scott	70CR1014524	M	Hispanic	18-21		Mur 2 sev=10	168.00
50	Principal	Murder - 2nd Degree - With Intent-Not Premeditated (Aid/Abet - GOC)	261.00	2011	Scott	70CR1014522	M	Unknown	18-21	Murder - 2nd Degree - With Intent-Not Premeditated (Aid/Abet - GOC)Murder - 2nd Degree - With Intent-Not Premeditated (Attempt to Commit - GOC) Murder - 2nd Degree - With Intent-Not Premeditated (Aid/Abet - GOC)Murder - 2nd Degree - With Intent-Not Premeditated (Attempt to Commit - GOC) Assault-2nd Degree-Dangerous Weapon (Aid/Abet - GOC)Assault-2nd Degree-Dangerous Weapon (Aid/Abet - GOC)	Murder - 2nd Degree - With Intent-Not Premeditated (Aid/Abet - GOC)	261.00
51	Principal	Aid and Abet Murder - Second Degree - Without Intent - While Committing a Felony	169.00	2011	St. Louis	69DUCR093425	M	Black	22-25		Mur 2 sev=10	169.00
51	Principal	Aid and Abet Murder - Second Degree - Without Intent - While Committing a Felony	115.00	2011	St. Louis	69DUCR093429	M	Black	18-21		Mur 2 sev=10	115.00

Cohort Number	Role	Principal's conviction	Principal's sentence	Year Sentenced	County	Case Number	Sex	Race	Age Category	If a co-defendant, charges faced	Convicted offenses	Pronounced confinement (in months)
52	Principal	Murder in the First Degree; Murder in the First Degree Committed for the Benefit of a Gang; Murder in the Second Degree; Murder in the Second Degree Committed for the Benefit of a Gang	LIFE	2010	Hennepin	27CR0929113	M	Black	18-21		Murder 1	Life
53	Principal	Murder in the Second Degree Aid and Abet - GOC; Manslaughter - 1st Degree	142.00	2010	Hennepin	27CR0938278	M	Am Ind	22-25		Mur 2 sev=10	142.00
54	Principal	Murder in the Second Degree Aid/Abet	144.00	2010	Hennepin	27CR0951294	M	Black	18-21		Mur 2 sev=10	144.00
55	Principal	Aid/Abet Murder - 2nd Degree - Without Intent - While Committing a Felony; Aid/Abet Crime Committed for Benefit of a Gang-Crime; Aid/Abet Manslaughter - 1st Degree - While Committing Gross Misdemeanor/Misdemeanor with Violence	141.00	2010	Ramsey	62CR099042	M	Asian	22-25		Mur 2 sev=10	141.00
56	Principal; hid body after the fact	Murder - 2nd Degree - Without Intent - While Committing a Felony	180.00	2013	Hennepin	27CR1338556	M	Black	Under 18		Mur 2 sev=10	180.00
57	Unclear	Unclear	Unclear	2010	Hennepin	27CR0921769	M	Black	26-30		Murder 1	Life

**Sentence, criminal history, and role of those convicted of aiding and abetting felony murder as a top-line offense in Minnesota from 2010 through 2019 (N=84).**

Cohort Number	Case Number	Statute	Severity Level	Total Criminal History Points	Number of True Prior Person Offenses <sup>1</sup>	Number of True Prior Sex Offenses <sup>2</sup>	Predicate Felony <sup>3</sup>	Physical Proximity <sup>4</sup>	Knowledge of Dangerous Weapon
1	27CR1720192	609.185(a)(3)	Murder 1	3.5	1	0	NL	Principal	Y
2	69DUCR17833	609.185(a)(3)	Murder 1	4.5	1	0	Attempted Aggravated Robbery in the First Degree	Principal	Y
2	69DUCR17840	609.185(a)(3)	Murder 1	2.5	0	0	Attempted Aggravated Robbery in the First Degree	Inside residence with principal	Y
3	27CR1710675	609.19.2(1)	10	1.0	0	0	Burglary while Using a Firearm	Inside residence; not in the room	Unclear
3	27CR1710693	609.19.2(1)	10	0.0	0	0	Burglary while Using a Firearm	Inside residence; not in the room	Unclear
3	27CR1710794	609.19.2(1)	10	1.5	0	0	Burglary while Using a Firearm	Inside residence; not in the room	Y
3	27CR1710674	609.19.2(1)	10	2.0	0	0	Burglary while Using a Firearm	Outside home in car	Unclear
3	27CR1710795	609.19.2(1)	10	0.0	0	0	Burglary while Using a Firearm	Outside home in car	Unclear
4	19HACR18910	609.19.2(1)	10	0.0	0	0	Assault in the First Degree; Malicious Punishment of a Child; Gross Misdemeanor or Misdemeanor with Violence	Principal	Y
5	19HACR164086	609.19.2(1)	10	0.0	0	0	Aggravated Robbery in the First Degree	Inside the car where the murder took place - back seat	Y

Cohort Number	Case Number	Statute	Severity Level	Total Criminal History Points	Number of True Prior Person Offenses <sup>1</sup>	Number of True Prior Sex Offenses <sup>2</sup>	Predicate Felony <sup>3</sup>	Physical Proximity <sup>4</sup>	Knowledge of Dangerous Weapon
5	19HACR154090	609.19.2(1)	10	0.0	0	0	Aggravated Robbery in the First Degree	Principal	Y
6	2CR173290	609.19.2(1)	10	7.5	2	1	NL	Principal	Y
7	27CR1633298	609.185(a)(3)	Murder 1	4.0	0	0	NL	On the scene, near victim	Y
7	27CR1633309	609.185(a)(3)	Murder 1	8.0	5	0	NL	On the scene, near victim	Y
8	19HACR182459	609.19.2(1)	10	0.0	0	0	NL	Principal	Y
9	70CR1621174	609.185(a)(3)	Murder 1	11.0	3	0	NL	Principal	Y
9	70CR1621176	609.185(a)(3)	Murder 1	1.5	0	0	NL	Outside home at time of fatal shot	Y
10	69DUCR18706	609.185(a)(3)	Murder 1	3.0	0	0	NL	Principal	Y
10	69DUCR18753	609.185(a)(3)	Murder 1	5.0	0	0	NL	Principal	Y
11	27CR1714774	609.19.2(1)	10	4.5	0	0	NL	Principal	Y
12	27CR176558	609.19.2(1)	10	4.0	1	0	NL	Principal	Unclear
13	62CR175249	609.19.2(1)	10	2.0	1	0	NL	Principal	Y
13	62CR173422	609.19.2(1)	10	4.0	2	0	NL	In car; outside the home	Unclear
13	62CR18219	609.19.2(1)	10	0.0	0	0	Aggravated Robbery in the First Degree	Down the street	Y
13	62CR175250	609.19.2(1)	10	3.5	1	0	NL	Next to principal	Y
14	62CR17691	609.185(a)(3)	Murder 1	4.0	1	0	NL	Principal	N/A
15	2CR177320	609.19.2(1)	10	0.0	0	0	NL	Principal	Unclear
16	27CR1534800	609.19.2(1)	10	8.0	2	0	NL	In the home	Y
16	27CR1534797	609.19.2(1)	10	3.0	1	0	NL	In the home	Y
16	62CR158342	609.19.2(1)	10	3.0	2	0	NL	Principal	Y

Cohort Number	Case Number	Statute	Severity Level	Total Criminal History Points	Number of True Prior Person Offenses <sup>1</sup>	Number of True Prior Sex Offenses <sup>2</sup>	Predicate Felony <sup>3</sup>	Physical Proximity <sup>4</sup>	Knowledge of Dangerous Weapon
17	62CR162156	609.19.2(1)	10	2.0	0	0	NL	Outside the room	Unclear
18	62CR166926	609.19.2(1)	10	3.0	1	0	Aggravated Robbery	Principal	Y
18	62CR166907	609.19.2(1)	10	11.0	3	0	Aggravated Robbery	Principal	Y
18	62CR166909	609.19.2(1)	10	1.0	0	0	Aggravated Robbery	Outside the car	Unclear
19	62CR17292	609.19.2(1)	10	6.0	4	0	NL	Principal	Y
20	62CR158365	609.19.2(1)	10	4.0	3	0	Aggravated Assault	Principal	N
20	62CR158366	609.19.2(1)	10	7.0	5	0	Aggravated Assault	Principal	N
21	74CR161393	609.19.2(1)	10	0.0	0	0	NL	Next to shooter	Y
22	19HACR142166	609.19.2(1)	10	14.0	4	0	NL	Principal	Y
23	27CR1526909	609.19.2(1)	10	1.0	0	0	NL	Principal	Y
24	27CR1517363	609.19.2(1)	10	0.0	0	0	NL	Same room	Y
25	27CR151460	609.19.2(1)	10	5.0	1	0	Aggravated Robbery	Next to principal	N/A
25	27CR1327739	609.19.2(1)	10	1.0	0	0	Aggravated Robbery	Next to principal	N/A
26	27CR157221	609.185(a)(3)	Murder 1	0.0	0	0	Aggravated robbery while using a firearm	Principal	Y
27	42CR15492	609.185(a)(3)	Murder 1	5.0	0	0	Principal	Principal	Y

Cohort Number	Case Number	Statute	Severity Level	Total Criminal History Points	Number of True Prior Person Offenses <sup>1</sup>	Number of True Prior Sex Offenses <sup>2</sup>	Predicate Felony <sup>3</sup>	Physical Proximity <sup>4</sup>	Knowledge of Dangerous Weapon
28	2CR145492	609.185(a)(3)	Murder 1	5.0	2	0	Aggravated Robbery; Burglary, Aggravated Robbery, Kidnapping, Arson in the First or Second Degree, Drive-by Shooting, Tampering with a witness in the First Degree, Escape from Custody, or Any Felony Violation of Chapter 152 Involving the Unlawful Sale of a Controlled Substance	Principal	Y
29	73CR145802	609.185(a)(3)	Murder 1	8.0	0	0	Aggravated Robbery	Principal	Y
29	73CR145795	609.185(a)(3)	Murder 1	2.0	0	0	Aggravated Robbery	Initially inside vehicle, but outside vehicle when principal fired weapon	Unclear
30	19HACR133070	609.19.2(1)	10	0.0	0	0	Burglary, Aggravated Robbery	Standing near principal	Y
30	19HACR133077	609.19.2(1)	10	0.0	0	0	Burglary, Attempted Robbery	Standing near principal	Y
31	27CR1322245	609.185(a)(3)	Murder 1	4.0	1	0	NL	Principal	Y
32	27CR1413127	609.19.2(1)	10	0.0	0	0	Aggravated Robbery with a Firearm	Not on scene	Y

Cohort Number	Case Number	Statute	Severity Level	Total Criminal History Points	Number of True Prior Person Offenses <sup>1</sup>	Number of True Prior Sex Offenses <sup>2</sup>	Predicate Felony <sup>3</sup>	Physical Proximity <sup>4</sup>	Knowledge of Dangerous Weapon
32	27CR1325523	609.19.2(1)	10	0.0	0	0	First Degree Aggravated Robbery	Principal	Y
33	27CR1327810	609.19.2(1)	10	0.0	0	0	NL	Principal	Y
34	62CR147884	609.19.2(1)	10	1.0	0	0	NL	Unclear	Unclear
35	34CR13741	609.185(a)(3)	Murder 1	0.0	0	0	Unclear	Unclear	Unclear
36	62CR141708	609.19.2(1)	10	1.0	0	0	NL	Principal	N/A
37	70CR1320740	609.19.2(1)	10	0.0	0	0	NL	Not on scene	Y
38	70CR138328	609.19.2(1)	10	2.0	0	0	NL	Principal	Y
39	82CR141064	609.19.2(1)	10	0.0	0	0	NL	Principal	Y
40	86CR135120	609.19.2(1)	10	0.0	0	0	NL	In car outside of home	Y
40	86CR135190	609.19.2(1)	10	1.0	0	0	NL	In garage (scene of crime)	Y
40	86CR135194	609.19.2(1)	10	0.0	0	0	NL	In garage (scene of crime)	Y
41	27CR132851	609.19.2(1)	10	0.0	0	0	Aggravated Robbery	Principal	N/A
41	27CR1241897	609.19.2(1)	10	0.0	0	0	Aggravated Robbery	Principal	N/A
42	27CR12185	609.185(a)(3)	Murder 1	1.0	1	0	NL	Principal	Y
43	27CR1221478	609.19.2(1)	10	0.0	0	0	Aggravated Robbery	Principal	Y
43	27CR1231212	609.19.2(1)	10	0.0	0	0	Aggravated Robbery	Principal	Y
44	68CR12946	609.19.2(1)	10	2.0	0	0	Assault in the Second Degree	Principal	Y
45	48CR101656	609.19.2(1)	10	7.0	4	0	Kidnapping	Principal	Y
46	27CR1121548	609.19.2(1)	10	1.0	0	0	Aggravated Robbery	Principal	N/A

Cohort Number	Case Number	Statute	Severity Level	Total Criminal History Points	Number of True Prior Person Offenses <sup>1</sup>	Number of True Prior Sex Offenses <sup>2</sup>	Predicate Felony <sup>3</sup>	Physical Proximity <sup>4</sup>	Knowledge of Dangerous Weapon
47	27CR0949756	609.185(a)(3)	Murder 1	0.0	0	0	Aggravated Robbery	Inside vehicle, one mile away from scene	Y
48	27CR101513	609.185(a)(3)	Murder 1	2.0	0	0	NL	Principal	N/A
49	27CR1030822	609.19.2(1)	10	0.0	0	0	NL	Principal	Y
50	70CR1022646	609.19.2(1)	10	0.0	0	0	NL	Next to principal	Y
50	70CR1014524	609.19.2(1)	10	0.0	0	0	NL	Next to principal	Y
51	69DUCR093425	609.19.2(1)	10	4.0	1	0	Aggravated Robbery in the First Degree	Principal	N/A
51	69DUCR093429	609.19.2(1)	10	0.0	0	0	Aggravated Robbery in the First Degree	Principal	N/A
52	27CR0929113	609.185(a)(3)	Murder 1	2.0	1	0	NL	Principal	Y
53	27CR0938278	609.19.2(1)	10	0.0	0	0	NL	Principal	N/A
54	27CR0951294	609.19.2(1)	10	3.0	1	0	NL	Principal	Y
55	62CR099042	609.19.2(1)	10	1.0	0	0	Assault in the Second Degree	Principal	N/A
56	27CR1338556	609.19.2(1)	10	0.0	0	0	NL	Principal	N/A
57	27CR0921769	609.185(a)(3)	Murder 1	5.0	1	0	Unclear	Unclear	Unclear

<sup>1</sup> “True prior person offenses” are convictions for felonies against a person (*except* sex offenses) with sentencing dates prior to the incident date of the case described here.

<sup>2</sup> “True prior sex offenses” are convictions for felony sex offenses with sentencing dates prior to the incident date of the case described here.

<sup>3</sup> “Predicate felony” is the underlying felony offense; at some point during commission of this felony, someone (other than the defendant or defendant’s associates) died. “NL” means that the predicate felony is “not listed” in the case documents.

<sup>4</sup> “Principal” is the person principally responsible for the homicidal acts.

Finally, we present departure and plea information from Task Force members' review of case documents where the defendant was convicted of aiding and abetting felony murder as a top-line offense in Minnesota from 2010 through 2019.

**Departure and plea information for those convicted of aiding and abetting felony murder as a top-line offense in Minnesota from 2010 through 2019 (N-84).**

Cohort Number	Case Number	Dispositional Departure	Durational Departure	Departure Reasons	Plea	Plea Reason <sup>1</sup>
1	27CR1720192	None	None	N/A	Not Guilty	N/A
2	69DUCR17833	None	None	N/A	Not Guilty	N/A
2	69DUCR17840	None	None	N/A	Not Guilty	N/A
3	27CR1710675	None	None	N/A	Guilty	NL
3	27CR1710693	None	None	N/A	Guilty	NL
3	27CR1710794	None	Aggravated	251 Committed crime as part of a grp of 3 or more 240 Crime committed in vic home or zone of privacy	Guilty	477 Waived Jury Determination of Aggravating Factors 470 Plea negotiation (on sentence) 440 Acceptable to/recommendation of prosecution
3	27CR1710674	None	None	N/A	Guilty	NL
3	27CR1710795	None	None	N/A	Guilty	NL
4	19HACR18910	None	Aggravated	N/A	Guilty	477 Waived Jury Determination of Aggravating Factors 470 Plea negotiation (on sentence)
5	19HACR164086	None	Mitigated	020 Offender played minor, lesser, or passive role 460 Vic recommendation/acquiescence/vic family	Guilty	440 Acceptable to/recommendation of prosecution 470 Plea negotiation (on sentence)
5	19HACR154090	None	None	N/A	Guilty	NL
6	2CR173290	None	Aggravated	358 Dangerous offender statute	Guilty	477 Waived Jury Determination of Aggravating Factors 470 Plea negotiation (on sentence)
7	27CR1633298	None	None	N/A	Guilty	NL
7	27CR1633309	None	None	N/A	Not Guilty	N/A
8	19HACR182459	None	None	N/A	Guilty	NL
9	70CR1621174	None	None	N/A	Not Guilty	N/A
9	70CR1621176	None	None	N/A	Guilty	NL
10	69DUCR18706	None	None	N/A	Not Guilty	N/A
10	69DUCR18753	None	None	N/A	Not Guilty	N/A
11	27CR1714774	None	None	N/A	Guilty	NL

Cohort Number	Case Number	Dispositional Departure	Durational Departure	Departure Reasons	Plea	Plea Reason <sup>1</sup>
12	27CR176558	None	None	N/A	Guilty	NL
13	62CR175249	None	None	N/A	Guilty	NL
13	62CR173422	None	Mitigated	N/A	Guilty	470 Plea negotiation (on sentence) 445 Recom by prosecution for testimony/cooperation
13	62CR18219	None	Mitigated	020 Offender played minor, lesser, or passive role 030 Lacked substantial capacity for judgment (non-drug)	Guilty	NL
13	62CR175250	None	Mitigated	020 Offender played minor, lesser, or passive role	Guilty	470 Plea negotiation (on sentence)
14	62CR17691	None	None	N/A	Not Guilty	N/A
15	2CR177320	None	None	N/A	Guilty	NL
16	27CR1534800	None	None	N/A	Guilty	NL
16	27CR1534797	None	Mitigated	020 Offender played minor, lesser, or passive role 710 Shows remorse/accepts responsibility 447 Cooperated with police and other law enforcement	Guilty	470 Plea negotiation (on sentence)
16	62CR158342	None	None	N/A	Guilty	NL
17	62CR162156	None	None	N/A	Guilty	NL
18	62CR166926	None	None	N/A	Guilty	NL
18	62CR166907	None	Aggravated	110 Victim is particularly vulnerable 251 Committed crime as part of a grp of 3 or more 357 Career offender statute	Guilty	477 Waived Jury Determination of Aggravating Factors 470 Plea negotiation (on sentence)
18	62CR166909	None	None	N/A	Guilty	NL
19	62CR17292	None	None	N/A	Guilty	NL
20	62CR158365	None	None	N/A	Not Guilty	N/A
20	62CR158366	None	None	N/A	Guilty	NL
21	74CR161393	None	None	N/A	Guilty	NL
22	19HACR142166	None	None	N/A	Guilty	NL
23	27CR1526909	None	None	N/A	Guilty	NL

Cohort Number	Case Number	Dispositional Departure	Durational Departure	Departure Reasons	Plea	Plea Reason <sup>1</sup>
24	27CR1517363	None	Mitigated	710 Shows remorse/accepts responsibility 040 Mitigation or excuse to culpability not amount to defense	Guilty	NL
25	27CR151460	None	Mitigated	020 Offender played minor, lesser, or passive role	Guilty	470 Plea negotiation (on sentence)
25	27CR1327739	None	Mitigated	070 Less onerous/weapon type less serious/gun not loaded 710 Shows remorse/accepts responsibility	Guilty	470 Plea negotiation (on sentence)
26	27CR157221	None	None	N/A	Not Guilty	N/A
27	42CR15492	None	None	N/A	Guilty	NL
28	2CR145492	None	Aggravated	780 Unknown	Guilty	NL
29	73CR145802	None	None	N/A	Not Guilty	N/A
29	73CR145795	None	None	N/A	Guilty	NL
30	19HACR133070	None	None	N/A	Guilty	NL
30	19HACR133077	None	None	N/A	Guilty	NL
31	27CR1322245	None	None	N/A	Not Guilty	N/A
32	27CR1413127	None	Mitigated	020 Offender played minor, lesser, or passive role 447 Cooperated with police and other law enforcement 710 Shows remorse/accepts responsibility 450 Recommended by court services	Guilty	470 Plea negotiation (on sentence)
32	27CR1325523	None	Mitigated	710 Shows remorse/accepts responsibility 447 Cooperated with police and other law enforcement	Guilty	470 Plea negotiation (on sentence) 445 Recom by prosecution for testimony/cooperation
33	27CR1327810	None	None	N/A	Guilty	NL
34	62CR147884	None	None	N/A	Guilty	NL
35	34CR13741	None	None	N/A	Guilty	NL
36	62CR141708	None	None	N/A	Not Guilty	NL
37	70CR1320740	None	Aggravated	240 Crime committed in vic home or zone of privacy 245 Crime committed in presence of children	Guilty	477 Waived Jury Determination of Aggravating Factors 470 Plea negotiation (on sentence)
38	70CR138328	None	None	N/A	Guilty	NL
39	82CR141064	mitigated	None	535 Amenable to probation 710 Shows remorse/accepts responsibility	Not Guilty	N/A

Cohort Number	Case Number	Dispositional Departure	Durational Departure	Departure Reasons	Plea	Plea Reason <sup>1</sup>
40	86CR135120	None	None	N/A	Guilty	NL
40	86CR135190	None	Mitigated	020 Offender played minor, lesser, or passive role	Guilty	470 Plea negotiation (on sentence) 440 Acceptable to/recommendation of prosecution
40	86CR135194	None	None	N/A	Guilty	NL
41	27CR132851	None	None	N/A	Guilty	NL
41	27CR1241897	None	None	N/A	Guilty	NL
42	27CR12185	None	None	N/A	Not Guilty	N/A
43	27CR1221478	None	None	N/A	Guilty	NL
43	27CR1231212	None	None	N/A	Guilty	NL
44	68CR12946	None	None	N/A	Guilty	NL
45	48CR101656	None	None	N/A	Not Guilty	N/A
46	27CR1121548	None	None	N/A	Guilty	NL
47	27CR0949756	None	None	N/A	Not Guilty	N/A
48	27CR101513	None	None	N/A	Not Guilty	N/A
49	27CR1030822	None	None	N/A	Not Guilty	N/A
50	70CR1022646	None	None	N/A	Guilty	NL
50	70CR1014524	None	None	N/A	Guilty	NL
51	69DUCR093425	None	Mitigated	Unknown	Guilty	470 Plea negotiation (on sentence)
51	69DUCR093429	None	Mitigated	Unknown	Guilty	470 Plea negotiation (on sentence)
52	27CR0929113	None	None	N/A	Not Guilty	N/A
53	27CR0938278	None	None	N/A	Not Guilty	N/A
54	27CR0951294	None	Mitigated	450 Recommended by court services 490 Accept sentence plea due to evidentiary problems	Guilty	440 Acceptable to/recommendation of prosecution 442 Prosecutor does not object to the departure 470 Plea negotiation (on sentence)
55	62CR099042	None	None	N/A	Not Guilty	N/A
56	27CR1338556	None	None	N/A	Guilty	NL
57	27CR0921769	None	None	N/A	Not Guilty	N/A

<sup>1</sup>“NL” means the reason is “not listed” in case documents.

## Appendix D. 50 state comparison data

Here, we present relevant statutes and case law describing how the 50 states limit – or not – aiding and abetting felony murder liability.

### 50 state comparison of aiding and abetting felony murder statutes and case law

State	Summary	Relevant statutes	Notes and/or notable case law (if found)
<b>Alabama</b>	<p>Felony murder for the enumerated felonies are classified as first degree murder generally. If criminal liability based on complicity can be proven, then felony murder for certain offenses will be deemed a capital offense.</p> <p>No primary limits to aiding and abetting felony murder liability.</p> <p>Secondary limit: Predicate felony must be part of a statutorily enumerated list for maximum liability to attach.</p>	<p>Ala.Code 1975 § 13A-6-2. Murder.</p> <p>(a) A person commits the crime of murder if he or she does any of the following:</p> <p>(3) He or she commits or attempts to commit arson in the first degree, burglary in the first or second degree, escape in the first degree, kidnapping in the first degree, rape in the first degree, robbery in any degree, sodomy in the first degree, aggravated child abuse under Section 26-15-3.1, or any other felony clearly dangerous to human life and, in the course of and in furtherance of the crime that he or she is committing or attempting to commit, or in immediate flight therefrom, he or she, or another participant if there be any, causes the death of any person.</p> <p>Ala.Code 1975 § 13A-5-40. Capital offenses.</p> <p>a) The following are capital offenses:</p> <p>(1) Murder by the defendant during a kidnapping in the first degree or an attempt thereof committed by the defendant.</p> <p>(2) Murder by the defendant during a robbery in the first degree or an attempt thereof committed by the defendant.</p> <p>(3) Murder by the defendant during a rape in the first or second degree or an attempt thereof committed by the defendant; or murder by the defendant during sodomy in the first or second degree or an attempt thereof committed by the defendant.</p> <p>(4) Murder by the defendant during a burglary in the first or second degree or an attempt thereof committed by the defendant.</p> <p>(8) Murder by the defendant during sexual abuse in the first or second degree or an attempt thereof committed by the defendant.</p> <p>(9) Murder by the defendant during arson in the first or second degree committed by the defendant; or murder by the defendant by means of explosives or explosion.</p>	<p>No distinction between principals and non-principals ("accessories"). See, e.g., <i>Harris v. Stat</i>, 32 Ala. App. 519, 27 Co.2d 794 (1946)("Section 14, Title 14, Code of Alabama 1940 abolishes the distinction between principals in the first and second degrees in felonies, and makes all persons concerned in the commission of a crime, whether directly or indirectly, liable to indictment, trial, and punishment as though principals in the first degree.")</p>

State	Summary	Relevant statutes	Notes and/or notable case law (if found)
Alabama		<p>(c) A defendant who does not personally commit the act of killing which constitutes the murder is not guilty of a capital offense defined in subsection (a) unless that defendant is legally accountable for the murder because of complicity in the murder itself under the provisions of Section 13A-2-23, in addition to being guilty of the other elements of the capital offense as defined in subsection (a).</p> <p>(d) To the extent that a crime other than murder is an element of a capital offense defined in subsection (a), a defendant's guilt of that other crime may also be established under Section 13A-2-23. When the defendant's guilt of that other crime is established under Section 13A-2-23, that crime shall be deemed to have been "committed by the defendant" within the meaning of that phrase as it is used in subsection (a).</p> <p>Ala.Code 1975 § 13A-2-23. Criminal liability based upon behavior of another -- Complicity. A person is legally accountable for the behavior of another constituting a criminal offense if, with the intent to promote or assist the commission of the offense:</p> <ol style="list-style-type: none"> <li>(1) He procures, induces or causes such other person to commit the offense; or</li> <li>(2) He aids or abets such other person in committing the offense; or</li> <li>(3) Having a legal duty to prevent the commission of the offense, he fails to make an effort he is legally required to make.</li> </ol> <p>Ala.Code 1975 § 13A-6-2. Murder. (c) A defendant who does not personally commit the act of killing which constitutes the murder is not guilty of a capital offense defined in subsection (a) unless that defendant is legally accountable for the murder because of complicity in the murder itself under the provisions of Section 13A-2-23, in addition to being guilty of the other elements of the capital offense as defined in subsection (a).</p>	

State	Summary	Relevant statutes	Notes and/or notable case law (if found)
Alabama		<p>(d) To the extent that a crime other than murder is an element of a capital offense defined in subsection (a), a defendant's guilt of that other crime may also be established under Section 13A-2-23. When the defendant's guilt of that other crime is established under Section 13A-2-23, that crime shall be deemed to have been "committed by the defendant" within the meaning of that phrase as it is used in subsection (a).</p> <p>Ala.Code 1975 § 13A-2-23. Criminal liability based upon behavior of another -- Complicity. A person is legally accountable for the behavior of another constituting a criminal offense if, with the intent to promote or assist the commission of the offense:</p> <p>(1) He procures, induces or causes such other person to commit the offense; or</p> <p>(2) He aids or abets such other person in committing the offense; or</p> <p>(3) Having a legal duty to prevent the commission of the offense, he fails to make an effort he is legally required to make.</p> <p>Ala. Code 1975 § 13A-6-2. Murder. (c) Murder is a Class A felony; provided, that the punishment for murder or any offense committed under aggravated circumstances by a person 18 years of age or older, as provided by Article 2 of Chapter 5 of this title, is death or life imprisonment without parole, which punishment shall be determined and fixed as provided by Article 2 of Chapter 5 of this title or any amendments thereto. The punishment for murder or any offense committed under aggravated circumstances by a person under the age of 18 years, as provided by Article 2 of Chapter 5, is either life imprisonment without parole, or life, which punishment shall be determined and fixed as provided by Article 2 of Chapter 5 of this title or any amendments thereto and the applicable Alabama Rules of Criminal Procedure.</p> <p>Ala.Code 1975 § 13A-5-6. Sentences of imprisonment for felonies. (a) Sentences for felonies shall be for a definite term of imprisonment, which imprisonment includes hard labor, within the following limitations:</p> <p>(1) For a Class A felony, for life or not more than 99 years or less than 10 years.</p>	

State	Summary	Relevant statutes	Notes and/or notable case law (if found)
Alaska	<p>Full felony murder rule but usually it will be charged as second-degree murder. Classified as first-degree when underlying felony is kidnapping one under 16 years old; criminal mischief in the first degree; and terroristic threatening in the first degree.</p> <p>No primary limits to aiding and abetting felony murder liability.</p> <p>Secondary limits: Person who died must not be participant in predicate felony. Affirmative defense. Mental state or act requirement before maximum liability attaches. Predicate felony must be part of a statutorily enumerated list for maximum liability to attach.</p>	<p>AS § 11.41.100. Murder in the first degree</p> <p>(3) acting alone or with one or more persons, the person commits or attempts to commit a sexual offense against or kidnapping of a child under 16 years of age and, in the course of or in furtherance of the offense or in immediate flight from that offense, any person causes the death of the child; in this paragraph, “sexual offense” means an offense defined in AS 11.41.410--11.41.470;</p> <p>(4) acting alone or with one or more persons, the person commits or attempts to commit criminal mischief in the first degree under AS 11.46.475 and, in the course of or in furtherance of the offense or in immediate flight from that offense, any person causes the death of a person other than one of the participants; or</p> <p>(5) acting alone or with one or more persons, the person commits terroristic threatening in the first degree under AS 11.56.807 and, in the course of or in furtherance of the offense or in immediate flight from that offense, any person causes the death of a person other than one of the participants.</p> <p>AS § 11.41.110. Murder in the second degree</p> <p>(a) A person commits the crime of murder in the second degree if:</p> <p>(3) under circumstances not amounting to murder in the first degree under AS 11.41.100(a)(3), while acting either alone or with one or more persons, the person commits or attempts to commit arson in the first degree, kidnapping, sexual assault in the first degree, sexual assault in the second degree, sexual abuse of a minor in the first degree, sexual abuse of a minor in the second degree, burglary in the first degree, escape in the first or second degree, robbery in any degree, or misconduct involving a controlled substance under AS 11.71.010(a), 11.71.021(a), 11.71.030(a)(2) or (9), or 11.71.040(a)(1) or (2) and, in the course of or in furtherance of that crime or in immediate flight from that crime, any person causes the death of a person other than one of the participants;</p>	<p>“Felony murder” is purposeful killing committed in perpetration of enumerated felonies in first-degree murder statute but, if such purposeful killing is not done in perpetration of one of the enumerated felonies, it may constitute second-degree murder or, if it is done in perpetration of felony but not with specific intent to kill, it may be manslaughter. <i>Gray v. State</i>, 1970, 463 P.2d 897.</p>

State	Summary	Relevant statutes	Notes and/or notable case law (if found)
Alaska		<p>(4) acting with a criminal street gang, the person commits or attempts to commit a crime that is a felony and, in the course of or in furtherance of that crime or in immediate flight from that crime, any person causes the death of a person other than one of the participants; (emphasis added) § 11.16.110. Legal accountability based upon the conduct of another</p> <p>A person is legally accountable for the conduct of another constituting an offense if</p> <p>(1) the person is made legally accountable by a provision of law defining the offense;</p> <p>(2) with intent to promote or facilitate the commission of the offense, the person</p> <p>(A) solicits the other to commit the offense; or</p> <p>(B) aids or abets the other in planning or committing the offense; or</p> <p>(3) acting with the culpable mental state that is sufficient for the commission of the offense, the person causes an innocent person or a person who lacks criminal responsibility to engage in the proscribed conduct.</p> <p>AS § 11.16.120. Exemptions to legal accountability for conduct of another</p> <p>(a) In a prosecution for an offense in which legal accountability is based on the conduct of another person,</p> <p>(1) it is an affirmative defense that the defendant, under circumstances manifesting a voluntary and complete renunciation of criminal intent,</p> <p>(A) terminated the defendant's complicity before the commission of the offense;</p> <p>(B) wholly deprived the defendant's complicity of its effectiveness in the commission of the offense; and</p> <p>(C) gave timely warning to law enforcement authorities or, if timely warning could not be given to law enforcement authorities by reasonable efforts, otherwise made a reasonable effort to prevent the commission of the offense;</p>	

State	Summary	Relevant statutes	Notes and/or notable case law (if found)
Alaska		<p>(2) it is not a defense that</p> <p>(A) the other person has not been prosecuted for or convicted of an offense based upon the conduct in question or has been convicted of a different offense or degree of offense;</p> <p>(B) the offense, as defined, can be committed only by a particular class of persons to which the defendant does not belong, and the defendant is for that reason legally incapable of committing the offense in an individual capacity; or</p> <p>(C) the other person is not guilty of the offense.</p> <p>(b) Except as otherwise provided by a provision of law defining an offense, a person is not legally accountable for the conduct of another constituting an offense if</p> <p>(1) the person is the victim of the offense; or</p> <p>(2) the offense is so defined that the person's conduct is inevitably incidental to its commission.</p> <p>AS § 12.55.125. Sentences of imprisonment for felonies</p> <p>(a) A defendant convicted of murder in the first degree or murder of an unborn child under AS 11.41.150(a)(1) shall be sentenced to a definite term of imprisonment of at least 30 years but not more than 99 years. A defendant convicted of murder in the first degree shall be sentenced to a mandatory term of imprisonment of 99 years when</p> <p>(2) the defendant has been previously convicted of</p> <p>(A) murder in the first degree under AS 11.41.100 or former AS 11.15.010 or 11.15.020;</p> <p>(B) murder in the second degree under AS 11.41.110 or former AS 11.15.030; or</p> <p>(C) homicide under the laws of another jurisdiction when the offense of which the defendant was convicted contains elements similar to first degree murder under AS 11.41.100 or second degree murder under AS 11.41.110;</p>	

State	Summary	Relevant statutes	Notes and/or notable case law (if found)
Alaska		<p>(b) A defendant convicted of attempted murder in the first degree, solicitation to commit murder in the first degree, conspiracy to commit murder in the first degree, kidnapping, or misconduct involving a controlled substance in the first degree shall be sentenced to a definite term of imprisonment of at least five years but not more than 99 years. A defendant convicted of murder in the second degree or murder of an unborn child under AS 11.41.150(a)(2)--(4) shall be sentenced to a definite term of imprisonment of at least 15 years but not more than 99 years.</p>	

State	Summary	Relevant statutes	Notes and/or notable case law (if found)
Arizona	<p>Full felony murder rule for enumerated felonies listed and linked in the statute. Classified as first degree murder.</p> <p>No primary limits to aiding and abetting felony murder liability.</p> <p>Secondary limit: Predicate felony must be part of a statutorily enumerated list for maximum liability to attach.</p>	<p>AZ ST § 13-1105. First degree murder; classification</p> <p>A. A person commits first degree murder if:</p> <ol style="list-style-type: none"> <li>2. Acting either alone or with one or more other persons the person commits or attempts to commit sexual conduct with a minor under § 13-1405, sexual assault under § 13-1406, molestation of a child under § 13-1410, terrorism under § 13-2308.01, marijuana offenses under § 13-3405, subsection A, paragraph 4, dangerous drug offenses under § 13-3407, subsection A, paragraphs 4 and 7, narcotics offenses under § 13-3408, subsection A, paragraph 7 that equal or exceed the statutory threshold amount for each offense or combination of offenses, involving or using minors in drug offenses under § 13-3409, drive by shooting under § 13-1209, kidnapping under § 13-1304, burglary under § 13-1506, 13-1507 or 13-1508, arson under § 13-1703 or 13-1704, robbery under § 13-1902, 13-1903 or 13-1904, escape under § 13-2503 or 13-2504, child abuse under § 13-3623, subsection A, paragraph 1 or unlawful flight from a pursuing law enforcement vehicle under § 28-622.01 and, in the course of and in furtherance of the offense or immediate flight from the offense, the person or another person causes the death of any person.</li> </ol> <p>B. Homicide, as prescribed in subsection A, paragraph 2 of this section, requires no specific mental state other than what is required for the commission of any of the enumerated felonies. § 13-301. Definition of accomplice</p> <p>In this title, unless the context otherwise requires, “accomplice” means a person, other than a peace officer acting in his official capacity within the scope of his authority and in the line of duty, who with the intent to promote or facilitate the commission of an offense:</p> <ol style="list-style-type: none"> <li>1. Solicits or commands another person to commit the offense; or</li> <li>2. Aids, counsels, agrees to aid or attempts to aid another person in planning or committing an offense.</li> <li>3. Provides means or opportunity to another person to commit the offense.</li> </ol>	<p>Attempted felony murder is not a recognized criminal offense in Arizona. <i>State v. Moore</i> (App. Div.1 2008) 218 Ariz. 534, 189 P.3d 1107</p> <p>Arizona recognizes no lesser included offense to felony murder. <i>State v. Sharp</i> (1999) 193 Ariz. 414, 973 P.2d 1171, certiorari denied 120 S.Ct. 341, 528 U.S. 936, 145 L.Ed.2d 266.</p>

State	Summary	Relevant statutes	Notes and/or notable case law (if found)
Arizona		<p>AZ ST § 13-303. Criminal liability based upon conduct of another</p> <p>A. A person is criminally accountable for the conduct of another if:</p> <ol style="list-style-type: none"> <li>1. The person is made accountable for such conduct by the statute defining the offense; or</li> <li>2. Acting with the culpable mental state sufficient for the commission of the offense, such person causes another person, whether or not such other person is capable of forming the culpable mental state, to engage in such conduct; or</li> <li>3. The person is an accomplice of such other person in the commission of an offense including any offense that is a natural and probable or reasonably foreseeable consequence of the offense for which the person was an accomplice.</li> </ol> <p>B. If causing a particular result is an element of an offense, a person who acts with the kind of culpability with respect to the result that is sufficient for the commission of the offense is guilty of that offense if:</p> <ol style="list-style-type: none"> <li>1. The person solicits or commands another person to engage in the conduct causing such result; or</li> <li>2. The person aids, counsels, agrees to aid or attempts to aid another person in planning or engaging in the conduct causing such result.</li> </ol> <p>AZ ST § 13-304. Nondefenses to criminal liability based upon conduct of another</p> <p>In any prosecution for an offense in which the criminal liability of the accused is based upon the conduct of another under § 13-303 or pursuant to § 13-1003, it is no defense that:</p> <ol style="list-style-type: none"> <li>1. The other person has not been prosecuted for or convicted of such offense, or has been acquitted of such offense, or has been convicted of a different offense or degree of offense or has an immunity to prosecution or conviction for such offense; or</li> <li>2. The accused belongs to a class of persons who by definition of the offense are legally incapable of committing the offense in an individual capacity.</li> </ol>	

State	Summary	Relevant statutes	Notes and/or notable case law (if found)
Arizona		<p>AZ ST § 13-1105 D. First degree murder is a class 1 felony and is punishable by death or life imprisonment as provided by §§ 13-751 and 13-752.</p> <p>AZ ST § 13-752. Sentences of death, life imprisonment or natural life; imposition; sentencing proceedings; definitions</p> <p>AZ ST § 13-751. Sentence of death or life imprisonment; aggravating and mitigating circumstances; definition</p>	

State	Summary	Relevant statutes	Notes and/or notable case law (if found)
<b>Arkansas</b>	<p>Felony murder for the listed felonies is capital murder. For all other felonies it is first degree murder. But, this is not strict liability.</p> <p>No primary limits to aiding and abetting felony murder liability.</p> <p>Secondary limits: Affirmative defense. Mental state or act requirement before felony murder attaches. Predicate felony must be part of a statutorily enumerated list for maximum liability to attach.</p>	<p>A.C.A. § 5-10-101</p> <p>a) A person commits capital murder if:</p> <p>(1) Acting alone or with one (1) or more other persons:</p> <p>(A) The person commits or attempts to commit:</p> <p>(i) Terrorism, as defined in § 5-54-205;</p> <p>(ii) Rape, § 5-14-103;</p> <p>(iii) Kidnapping, § 5-11-102;</p> <p>(iv) Vehicular piracy, § 5-11-105;</p> <p>(v) Robbery, § 5-12-102;</p> <p>(vi) Aggravated robbery, § 5-12-103;</p> <p>(vii) Residential burglary, § 5-39-201(a);</p> <p>(viii) Commercial burglary, § 5-39-201(b);</p> <p>(ix) Aggravated residential burglary, § 5-39-204;</p> <p>(x) A felony violation of the Uniform Controlled Substances Act, §§ 5-64-101 -- 5-64-508, involving an actual delivery of a controlled substance; or</p> <p>(xi) First degree escape, § 5-54-110; and</p> <p>(B) In the course of and in furtherance of the felony or in immediate flight from the felony, the person or an accomplice causes the death of a person under circumstances manifesting extreme indifference to the value of human life;</p> <p>(2) Acting alone or with one (1) or more other persons:</p> <p>(A) The person commits or attempts to commit arson, § 5-38-301; and</p> <p>(B) In the course of and in furtherance of the felony or in immediate flight from the felony, the person or an accomplice causes the death of any person;</p> <p>(b) It is an affirmative defense to any prosecution under subdivision (a)(1) of this section for an offense in which the defendant was not the only participant that the defendant did not commit the homicidal act or in any way solicit, command, induce, procure, counsel, or aid in the homicidal act's commission.</p>	

State	Summary	Relevant statutes	Notes and/or notable case law (if found)
Arkansas		<p>A.C.A. § 5-10-102. Murder - First Degree.</p> <p>(a) A person commits murder in the first degree if:</p> <p>(1) Acting alone or with one (1) or more other persons:</p> <p>(A) The person commits or attempts to commit a felony; and</p> <p>(B) In the course of and in the furtherance of the felony or in immediate flight from the felony, the person or an accomplice causes the death of any person under circumstances manifesting extreme indifference to the value of human life;</p> <p>(b) It is an affirmative defense to any prosecution under subdivision (a)(1) of this section for an offense in which the defendant was not the only participant that the defendant:</p> <p>(1) Did not commit the homicidal act or in any way solicit, command, induce, procure, counsel, or aid the homicidal act's commission;</p> <p>(2) Was not armed with a deadly weapon;</p> <p>(3) Reasonably believed that no other participant was armed with a deadly weapon; and</p> <p>(4) Reasonably believed that no other participant intended to engage in conduct that could result in death or serious physical injury.</p> <p>A.C.A. § 5-10-101 – Capital Murder</p> <p>(b) It is an affirmative defense to any prosecution under subdivision (a)(1) of this section for an offense in which the defendant did not commit the homicidal act or in any way solicit, command, induce, procure, counsel, or aid in the homicidal act's commission.</p> <p>A.C.A. § 5-10-102. Murder - First Degree.</p> <p>(b) It is an affirmative defense to any prosecution under subdivision (a)(1) of this section for an offense in which the defendant was not the only participant that the defendant:</p> <p>(1) Did not commit the homicidal act or in any way solicit, command, induce, procure, counsel, or aid the homicidal act's commission;</p> <p>(2) Was not armed with a deadly weapon;</p>	

State	Summary	Relevant statutes	Notes and/or notable case law (if found)
Arkansas		<p>(3) Reasonably believed that no other participant was armed with a deadly weapon; and  (4) Reasonably believed that no other participant intended to engage in conduct that could result in death or serious physical injury.</p> <p>A.C.A. § 5-10-101  (c)(1) Capital murder is punishable as follows:  (A) If the defendant was eighteen (18) years of age or older at the time he or she committed the capital murder:  (i) Death; or  (ii) Life imprisonment without parole under §§ 5-4-601 -- 5-4-605, 5-4-607, and 5-4-608; or  (B) If the defendant was younger than eighteen (18) years of age at the time he or she committed the capital murder, life imprisonment with the possibility of parole after serving a minimum of thirty (30) years' imprisonment.</p> <p>A.C.A. § 5-10-102. Murder - First Degree.  (c)(1) Murder in the first degree is a Class Y felony. (2) Unless the application of § 16-93-621 results in a person's being eligible for parole at an earlier date, if a person was younger than eighteen (18) years of age at the time he or she committed murder in the first degree and is sentenced to life imprisonment, the person is eligible for parole after serving a minimum of twenty-five (25) years' imprisonment.</p>	

State	Summary	Relevant statutes	Notes and/or notable case law (if found)
<p><b>California</b></p>	<p>California recently reformed its felony murder law in the following ways:</p> <ol style="list-style-type: none"> <li>1. Limited liability for first degree felony murder to circumstances in which the person was either: (a) the actual killer; (b) intended to kill, or aided, abetted, counseled, etc. the killing; or (c) acted with “reckless indifference to human life” during the killing, and as a major participant in the crime.</li> <li>2. Abolished second degree felony murder by stating that “malice shall not be imputed to a person based solely on his or her participation in a crime.”</li> <li>3. Allowed people who were in prison or who had ever been convicted of felony murder or murder under the natural and probable consequences doctrine to be resentenced by petitioning the court that sentenced the petitioner to have the petitioner’s murder conviction vacated and to be resentenced on any remaining counts.</li> </ol> <p>Primary limit: legislature abolished 2nd degree felony murder for aiders/abettors.</p> <p>Secondary limit: Mental state or act requirement before felony murder attaches.</p>	<p>California Penal Code § 187.</p> <p>(a) Murder is the unlawful killing of a human being, or a fetus, with malice aforethought.</p> <p>(b) This section shall not apply to any person who commits an act that results in the death of a fetus if any of the following apply:</p> <ol style="list-style-type: none"> <li>(1) The act complied with the Therapeutic Abortion Act, Article 2 (commencing with Section 123400) of Chapter 2 of Part 2 of Division 106 of the Health and Safety Code.</li> <li>(2) The act was committed by a holder of a physician’s and surgeon’s certificate, as defined in the Business and Professions Code, in a case where, to a medical certainty, the result of childbirth would be death of the mother of the fetus or where her death from childbirth, although not medically certain, would be substantially certain or more likely than not.</li> <li>(3) The act was solicited, aided, abetted, or consented to by the mother of the fetus.</li> </ol> <p>(c) Subdivision (b) shall not be construed to prohibit the prosecution of any person under any other provision of law.</p> <p>California Penal Code § 188.</p> <p>(a) For purposes of Section 187, malice may be express or implied.</p> <ol style="list-style-type: none"> <li>(1) Malice is express when there is manifested a deliberate intention to unlawfully take away the life of a fellow creature.</li> <li>(2) Malice is implied when no considerable provocation appears, or when the circumstances attending the killing show an abandoned and malignant heart.</li> <li>(3) Except as stated in subdivision (e) of Section 189, in order to be convicted of murder, a principal in a crime shall act with malice aforethought. Malice shall not be imputed to a person based solely on his or her participation in a crime.</li> </ol> <p>(b) If it is shown that the killing resulted from an intentional act with express or implied malice, as defined in subdivision</p>	<p>The felony-murder rule has two applications: first degree felony murder and second degree felony murder; first degree felony murder is a killing during the course of a felony specified by statute, such as rape, burglary, or robbery, and second degree felony murder is an unlawful killing in the course of the commission of a felony that is inherently dangerous to human life but is not specified by statute.</p> <p><i>People v. Frandsen</i> (App. 2 Dist. 2019) 245 Cal.Rptr.3d 658, review denied.</p> <p>An aider and abettor's liability for murder under the natural and probable consequences doctrine operates independently of the felony-murder rule.</p> <p><i>People v. Chiu</i> (2014) 172 Cal.Rptr.3d 438, 59 Cal.4th 155, 325 P.3d 972.</p> <p>Felony-murder doctrine is disfavored and should not be extended beyond any rational function that it is designed to serve. <i>People v. Esquivel</i> (App. 4 Dist. 1994) 34 Cal.Rptr.2d 324, 28 Cal.App.4th 1386.</p>

State	Summary	Relevant statutes	Notes and/or notable case law (if found)
California		<p>(a), no other mental state need be shown to establish the mental state of malice aforethought. Neither an awareness of the obligation to act within the general body of laws regulating society nor acting despite that awareness is included within the definition of malice. California Penal Code § 189.</p> <p>(a) All murder that is perpetrated by means of a destructive device or explosive, a weapon of mass destruction, knowing use of ammunition designed primarily to penetrate metal or armor, poison, lying in wait, torture, or by any other kind of willful, deliberate, and premeditated killing, or that is committed in the perpetration of, or attempt to perpetrate, arson, rape, carjacking, robbery, burglary, mayhem, kidnapping, train wrecking, or any act punishable under Section 206, 286, 287, 288, or 289, or former Section 288a, or murder that is perpetrated by means of discharging a firearm from a motor vehicle, intentionally at another person outside of the vehicle with the intent to inflict death, is murder of the first degree.</p> <p>(b) All other kinds of murders are of the second degree.</p> <p>(c) As used in this section, the following definitions apply:</p> <p>(1) "Destructive device" has the same meaning as in Section 16460.</p> <p>(2) "Explosive" has the same meaning as in Section 12000 of the Health and Safety Code.</p> <p>(3) "Weapon of mass destruction" means any item defined in Section 11417.</p> <p>(d) To prove the killing was "deliberate and premeditated," it is not necessary to prove the defendant maturely and meaningfully reflected upon the gravity of the defendant's act.</p> <p>(e) A participant in the perpetration or attempted perpetration of a felony listed in subdivision (a) in which a death occurs is liable for murder only if one of the following is proven:</p> <p>(1) The person was the actual killer.</p> <p>(2) The person was not the actual killer, but, with the intent to kill, aided, abetted, counseled, commanded, induced, solicited, requested, or assisted the actual killer in the commission of murder in the first degree.</p>	

State	Summary	Relevant statutes	Notes and/or notable case law (if found)
California		<p>(3) The person was a major participant in the underlying felony and acted with reckless indifference to human life, as described in subdivision (d) of Section 190.2.</p> <p>(f) Subdivision (e) does not apply to a defendant when the victim is a peace officer who was killed while in the course of the peace officer's duties, where the defendant knew or reasonably should have known that the victim was a peace officer engaged in the performance of the peace officer's duties.</p> <p>California Penal Code § 190. Punishment for murder; murder of peace officers; shooting firearm from motor vehicle; release on parole</p> <p>(a) Every person guilty of murder in the first degree shall be punished by death, imprisonment in the state prison for life without the possibility of parole, or imprisonment in the state prison for a term of 25 years to life. The penalty to be applied shall be determined as provided in Sections 190.1, 190.2, 190.3, 190.4, and 190.5. Except as provided in subdivision (b), (c), or (d), every person guilty of murder in the second degree shall be punished by imprisonment in the state prison for a term of 15 years to life.</p> <p>California Penal Code § 190.2. Death penalty or life imprisonment without parole; special circumstances</p> <p>(a) The penalty for a defendant who is found guilty of murder in the first degree is death or imprisonment in the state prison for life without the possibility of parole if one or more of the following special circumstances has been found under Section 190.4 to be true:</p> <p>(17) The murder was committed while the defendant was engaged in, or was an accomplice in, the commission of, attempted commission of, or the immediate flight after committing, or attempting to commit, the following felonies:</p> <p>(A) Robbery in violation of Section 211 or 212.5.</p> <p>(B) Kidnapping in violation of Section 207, 209, or 209.5.</p> <p>(C) Rape in violation of Section 261.</p> <p>(D) Sodomy in violation of Section 286.</p>	

State	Summary	Relevant statutes	Notes and/or notable case law (if found)
California		<p>(E) The performance of a lewd or lascivious act upon the person of a child under the age of 14 years in violation of Section 288.</p> <p>(F) Oral copulation in violation of Section 287 or former Section 288a.</p> <p>(G) Burglary in the first or second degree in violation of Section 460.</p> <p>(H) Arson in violation of subdivision (b) of Section 451.</p> <p>(I) Train wrecking in violation of Section 219.</p> <p>(J) Mayhem in violation of Section 203.</p> <p>(K) Rape by instrument in violation of Section 289.</p> <p>(L) Carjacking, as defined in Section 215.</p> <p>(M) To prove the special circumstances of kidnapping in subparagraph (B), or arson in subparagraph (H), if there is specific intent to kill, it is only required that there be proof of the elements of those felonies. If so established, those two special circumstances are proven even if the felony of kidnapping or arson is committed primarily or solely for the purpose of facilitating the murder.</p>	

State	Summary	Relevant statutes	Notes and/or notable case law (if found)
<p><b>Colorado</b></p>	<p>Felony murder for enumerated felonies. Classified as second degree murder.</p> <p>No primary limits to aiding and abetting felony murder liability.</p> <p>Secondary limits: Person who died must not be participant in predicate felony. Affirmative defense. Predicate felony must be part of a statutorily enumerated list for maximum liability to attach.</p>	<p>C.R.S.A. § 18-3-103. Murder in the second degree-- definitions.</p> <p>(1) A person commits the crime of murder in the second degree if:</p> <p>(b) Acting either alone or with one or more persons, he or she commits or attempts to commit felony arson, robbery, burglary, kidnapping, sexual assault as prohibited by section 18-3-402, sexual assault in the first or second degree as prohibited by section 18-3-402 or 18-3-403, as those sections existed prior to July 1, 2000, or a class 3 felony for sexual assault on a child as provided in section 18-3-405(2), or the felony crime of escape as provided in section 18-8-208, and, in the course of or in furtherance of the crime that he or she is committing or attempting to commit, or of immediate flight therefrom, the death of a person, other than one of the participants, is caused by any participant.</p> <p>(1.5) It is an affirmative defense to a charge of violating subsection (1)(b) of this section that the defendant:</p> <p>(a) Was not the only participant in the underlying crime; and</p> <p>(b) Did not commit the homicidal act or in any way solicit, request, command, importune, cause, or aid the commission thereof; and</p> <p>(c) Was not armed with a deadly weapon; and</p> <p>(d) Did not engage himself or herself in or intend to engage in and had no reasonable ground to believe that any other participant intended to engage in conduct likely to result in death or serious bodily injury.</p> <p>(3)(a) Except as otherwise provided in paragraph (b) of this subsection (3), murder in the second degree is a class 2 felony.</p> <p>C.R.S.A. § 18-3-103. Murder in the second degree-- definitions.</p> <p>(1.5) It is an affirmative defense to a charge of violating subsection (1)(b) of this section that the defendant:</p> <p>(a) Was not the only participant in the underlying crime; and</p>	<p><a href="https://www.denverpost.com/2021/04/16/colorado-felony-murder-bill-prison-sentence/">The CO law was amended in 2021 to move felony murder from first degree to second degree murder. Penalty was changed from Class 1 to Class 2 Felony. Statute also provides that death must be of a person other than a participant</a> (<a href="https://www.denverpost.com/2021/04/16/colorado-felony-murder-bill-prison-sentence/">https://www.denverpost.com/2021/04/16/colorado-felony-murder-bill-prison-sentence/</a>).</p>

State	Summary	Relevant statutes	Notes and/or notable case law (if found)
Colorado		<p>(b) Did not commit the homicidal act or in any way solicit, request, command, importune, cause, or aid the commission thereof; and</p> <p>(c) Was not armed with a deadly weapon; and</p> <p>(d) Did not engage himself or herself in or intend to engage in and had no reasonable ground to believe that any other participant intended to engage in conduct likely to result in death or serious bodily injury. C.R.S.A. § 18-3-103. Murder in the second degree--definitions.</p> <p>(4) A defendant convicted pursuant to subsection (1) of this section shall be sentenced by the court in accordance with the provisions of section 18-1.3-406.</p> <p>C.R.S.A. § 18-1.3-406. Mandatory sentences for violent crimes--definitions</p> <p>C.R.S.A. § 18-1.3-401. Felonies classified--presumptive penalties</p> <p>(V.5)(A) As to any person sentenced for a felony for an offense committed on or after July 1, 2020, felonies are divided into six classes that are distinguished from one another by the following presumptive ranges of penalties that are authorized upon conviction:</p> <p>(8)(a) The presence of any one or more of the following extraordinary aggravating circumstances shall require the court, if it sentences the defendant to incarceration, to sentence the defendant to a term of at least the midpoint in the presumptive range but not more than twice the maximum term authorized in the presumptive range for the punishment of a felony:</p> <p>(I) The defendant is convicted of a crime of violence under section 18-1.3-406;</p>	

State	Summary	Relevant statutes	Notes and/or notable case law (if found)
Connecticut	<p>Full felony murder for the enumerated felonies.</p> <p>Secondary limits: Affirmative defense. Predicate felony must be part of a statutorily enumerated list for maximum liability to attach.</p> <p>No primary limits to aiding and abetting felony murder liability.</p>	<p>C.G.S.A. § 53a-54c: Felony Murder.  A person is guilty of murder when, acting either alone or with one or more persons, such person commits or attempts to commit robbery, home invasion, burglary, kidnapping, sexual assault in the first degree, aggravated sexual assault in the first degree, sexual assault in the third degree, sexual assault in the third degree with a firearm, escape in the first degree, or escape in the second degree and, in the course of and in furtherance of such crime or of flight therefrom, such person, or another participant, if any, causes the death of a person other than one of the participants, except that in any prosecution under this section, in which the defendant was not the only participant in the underlying crime, it shall be an affirmative defense that the defendant: (1) Did not commit the homicidal act or in any way solicit, request, command, importune, cause or aid the commission thereof; and (2) was not armed with a deadly weapon, or any dangerous instrument; and (3) had no reasonable ground to believe that any other participant was armed with such a weapon or instrument; and (4) had no reasonable ground to believe that any other participant intended to engage in conduct likely to result in death or serious physical injury.</p> <p>C.G.S.A. § 53a-8. Criminal liability for acts of another  (a) A person, acting with the mental state required for commission of an offense, who solicits, requests, commands, importunes or intentionally aids another person to engage in conduct which constitutes an offense shall be criminally liable for such conduct and may be prosecuted and punished as if he were the principal offender.</p>	

State	Summary	Relevant statutes	Notes and/or notable case law (if found)
Connecticut		<p>(b) A person who sells, delivers or provides any firearm, as defined in subdivision (19) of section 53a-3, to another person to engage in conduct which constitutes an offense knowing or under circumstances in which he should know that such other person intends to use such firearm in such conduct shall be criminally liable for such conduct and shall be prosecuted and punished as if he were the principal offender.</p> <p>C.G.S.A. § 53a-54c: Felony Murder. except that in any prosecution under this section, in which the defendant was not the only participant in the underlying crime, it shall be an affirmative defense that the defendant: (1) Did not commit the homicidal act or in any way solicit, request, command, importune, cause or aid the commission thereof; and (2) was not armed with a deadly weapon, or any dangerous instrument; and (3) had no reasonable ground to believe that any other participant was armed with such a weapon or instrument; and (4) had no reasonable ground to believe that any other participant intended to engage in conduct likely to result in death or serious physical injury.</p> <p>CT ST § 53a-35a. Imprisonment for felony committed on or after July 1, 1981. Definite sentence. Authorized term For any felony committed on or after July 1, 1981, the sentence of imprisonment shall be a definite sentence and, unless the section of the general statutes that defines or provides the penalty for the crime specifically provides otherwise, the term shall be fixed by the court as follows: (2) For the class A felony of murder, a term not less than twenty-five years nor more than life;</p>	

State	Summary	Relevant statutes	Notes and/or notable case law (if found)
<p><b>Delaware</b></p>	<p>Felony murder for all felonies (not specific list). Classified as first degree murder. No affirmative defense per se, but statute re liability of another (11 Del. C. section 273) provides some limiting criteria, and states that if actor's conduct constitutes a separate offense, the actor is liable for that offense only and not for the conduct or offense committed by the other person.</p> <p>No primary limits to aiding and abetting felony murder liability.</p> <p>Secondary limits: Abandonment defense (applies to all aiding/abetting). Mental state or act requirement before felony murder attaches.</p>	<p>11 Del. C. § 636. Murder in the first degree; class A felony  (a) A person is guilty of murder in the first degree when:  (2) While engaged in the commission of, or attempt to commit, or flight after committing or attempting to commit any felony, the person recklessly causes the death of another person.</p> <p>11 Del. C. § 271. Liability for the conduct of another--  Generally  A person is guilty of an offense committed by another person when:  (1) Acting with the state of mind that is sufficient for commission of the offense, the person causes an innocent or irresponsible person to engage in conduct constituting the offense; or  (2) Intending to promote or facilitate the commission of the offense the person:  a. Solicits, requests, commands, importunes or otherwise attempts to cause the other person to commit it; or  b. Aids, counsels or agrees or attempts to aid the other person in planning or committing it; or  c. Having a legal duty to prevent the commission of the offense, fails to make a proper effort to do so; or  (3) The person's conduct is expressly declared by this Criminal Code or another statute to establish the person's complicity.</p> <p>11 Del. C. § 273. Liability for the conduct of another--  Exemption  Unless otherwise provided by this Criminal Code or by the statute defining the offense, a person is not liable for an offense committed by another person if:  (1) The person is a victim of that offense; or  (2) The offense is so defined that the person's conduct is inevitably incident to its commission; or  (3) The person terminates complicity prior to commission of the offense and:  a. Wholly deprives it of effectiveness in the commission of the offense; or  b. Gives timely warning to the Attorney General or the police or otherwise makes a proper effort to prevent the commission of the offense.</p>	<p>A defendant is liable for a murder committed by an accomplice where the murder was a foreseeable consequence of the underlying felonious conduct and the defendant intended to promote or facilitate the principal's conduct constituting the offense. <i>Williams v. State</i>, 818 A.2d 906 (2002).</p> <p>Amendment to the statutory provision on first-degree felony murder that replaced “[I]n the course of and in furtherance of” with “[W]hile engaged in the commission of” did not eliminate the agency theory of felony murder, under which the act of killing must be committed by either the defendant or by one acting in concert with him. <i>Comer v. State</i>, 977 A.2d 334 (2009)</p> <p>Attempt requires intent, and one cannot be convicted of an attempt to commit a crime, such as felony murder, which may only be committed recklessly. <i>Rambo v. State</i>, 939 A.2d 1275 (2007).</p>

State	Summary	Relevant statutes	Notes and/or notable case law (if found)
Delaware		<p>If the actor's conduct constitutes a separate offense, the actor is liable for that offense only and not for the conduct or offense committed by the other person.</p> <p>11 Del. C. § 275. Indictment as principal and conviction as accomplice; indictment as accomplice and conviction as principal</p> <p>(a) A person indicted for committing an offense may be convicted as an accomplice to another person guilty of committing the offense.</p> <p>(b) A person indicted as an accomplice to an offense committed by another person may be convicted as a principal.</p> <p>11 Del. C. § 273. Liability for the conduct of another-- Exemption</p> <p>Unless otherwise provided by this Criminal Code or by the statute defining the offense, a person is not liable for an offense committed by another person if:</p> <p>(1) The person is a victim of that offense; or</p> <p>(2) The offense is so defined that the person's conduct is inevitably incident to its commission; or</p> <p>(3) The person terminates complicity prior to commission of the offense and:</p> <p>a. Wholly deprives it of effectiveness in the commission of the offense; or</p> <p>b. Gives timely warning to the Attorney General or the police or otherwise makes a proper effort to prevent the commission of the offense.</p> <p>If the actor's conduct constitutes a separate offense, the actor is liable for that offense only and not for the conduct or offense committed by the other person.</p> <p>11 Del. C. § 636. Murder in the first degree; class A felony</p> <p>(b) Murder in the first degree is a class A felony and shall be punished:</p> <p>(1) As provided in § 4209 of this title for an offense that was committed after the person had reached the person's eighteenth birthday; and</p> <p>(2) As provided in § 4209A of this title for an offense that was committed before the person had reached the person's eighteenth birthday.</p>	

State	Summary	Relevant statutes	Notes and/or notable case law (if found)
Delaware		<p>11 Del. C. § 4209. Punishment, procedure for determining punishment, review of punishment and method of punishment for first-degree murder committed by adult offenders</p> <p>(a) Punishment for first-degree murder.--Any person who is convicted of first-degree murder for an offense that was committed after the person had reached the person's eighteenth birthday shall be punished by death or by imprisonment for the remainder of the person's natural life without benefit of probation or parole or any other reduction, said penalty to be determined in accordance with this section.</p>	

State	Summary	Relevant statutes	Notes and/or notable case law (if found)
<p><b>Florida</b></p>	<p>Felony murder for certain enumerated felonies are first degree murder. If the defendant was engaged in the felony but did not commit the murder, it can be second degree. All other felonies create the classification of third degree murder.</p> <p>No primary limits to aiding and abetting felony murder liability.</p> <p>Secondary limit: Predicate felony must be part of a statutorily enumerated list for maximum liability to attach.</p>	<p>F.S.A. § 782.04. Murder</p> <p>(1)(a) The unlawful killing of a human being:</p> <p>2. When committed by a person engaged in the perpetration of, or in the attempt to perpetrate, any:</p> <p>a. Trafficking offense prohibited by s. 893.135(1),</p> <p>b. Arson,</p> <p>c. Sexual battery,</p> <p>d. Robbery,</p> <p>e. Burglary,</p> <p>f. Kidnapping,</p> <p>g. Escape,</p> <p>h. Aggravated child abuse,</p> <p>i. Aggravated abuse of an elderly person or disabled adult,</p> <p>j. Aircraft piracy,</p> <p>k. Unlawful throwing, placing, or discharging of a destructive device or bomb,</p> <p>l. Carjacking,</p> <p>m. Home-invasion robbery,</p> <p>n. Aggravated stalking,</p> <p>o. Murder of another human being,</p> <p>p. Resisting an officer with violence to his or her person,</p> <p>q. Aggravated fleeing or eluding with serious bodily injury or death,</p> <p>r. Felony that is an act of terrorism or is in furtherance of an act of terrorism, including a felony under s. 775.30, s. 775.32, s. 775.33, s. 775.34, or s. 775.35, or</p> <p>s. Human trafficking; or</p> <p>is murder in the first degree and constitutes a capital felony, punishable as provided in s. 775.082.</p> <p>(3) When a human being is killed during the perpetration of, or during the attempt to perpetrate, any:</p> <p>(a) Trafficking offense prohibited by s. 893.135(1),</p> <p>(b) Arson,</p> <p>(c) Sexual battery,</p> <p>(d) Robbery,</p> <p>(e) Burglary,</p> <p>(f) Kidnapping,</p> <p>(g) Escape,</p> <p>(h) Aggravated child abuse,</p>	<p>There is no crime of attempted first-degree felony murder. <i>Gibson v. State</i>, App. 1 Dist., 685 So.2d 76 (1996).</p> <p>No affirmative defense statute, but <i>Grandison v. State</i>, 160 So. 3d 90, 93–94 (Fla. Dist. Ct. App. 2015) requires "conscious intent that the criminal act [is being] done." ("To convict under the principals theory, the State is required to prove "the defendant had a conscious intent that the criminal act be done and ... the defendant did some act or said some word which was intended to and which did incite, cause, encourage, assist, or advise the other person or persons to actually commit or attempt *94 to commit the crime.' " " Neither mere knowledge that an offense is being committed nor presence at the scene of the crime and flight therefrom are sufficient to establish participation with the requisite intent." ) (Internal quotation marks and citations omitted)</p>

State	Summary	Relevant statutes	Notes and/or notable case law (if found)
Florida		<ul style="list-style-type: none"> <li>(i) Aggravated abuse of an elderly person or disabled adult,</li> <li>(j) Aircraft piracy,</li> <li>(k) Unlawful throwing, placing, or discharging of a destructive device or bomb,</li> <li>(l) Carjacking,</li> <li>(m) Home-invasion robbery,</li> <li>(n) Aggravated stalking,</li> <li>(o) Murder of another human being,</li> <li>(p) Aggravated fleeing or eluding with serious bodily injury or death,</li> <li>(q) Resisting an officer with violence to his or her person, or</li> <li>(r) Felony that is an act of terrorism or is in furtherance of an act of terrorism, including a felony under s. 775.30, s. 775.32, s. 775.33, s. 775.34, or s. 775.35, by a person other than the person engaged in the perpetration of or in the attempt to perpetrate such felony, the person perpetrating or attempting to perpetrate such felony commits murder in the second degree, which constitutes a felony of the first degree, punishable by imprisonment for a term of years not exceeding life or as provided in s. 775.082, s. 775.083, or s. 775.084.</li> <li>(4) The unlawful killing of a human being, when perpetrated without any design to effect death, by a person engaged in the perpetration of, or in the attempt to perpetrate, any felony other than any: <ul style="list-style-type: none"> <li>(a) Trafficking offense prohibited by s. 893.135(1),</li> <li>(b) Arson,</li> <li>(c) Sexual battery,</li> <li>(d) Robbery,</li> <li>(e) Burglary,</li> <li>(f) Kidnapping,</li> <li>(g) Escape,</li> <li>(h) Aggravated child abuse,</li> <li>(i) Aggravated abuse of an elderly person or disabled adult,</li> <li>(j) Aircraft piracy,</li> </ul> </li> </ul>	

State	Summary	Relevant statutes	Notes and/or notable case law (if found)
Florida		<p>(k) Unlawful throwing, placing, or discharging of a destructive device or bomb,  (l) Unlawful distribution of any substance controlled under s. 893.03(1), cocaine as described in s. 893.03(2)(a) 4., or opium or any synthetic or natural salt, compound, derivative, or preparation of opium by a person 18 years of age or older, when such drug is proven to be the proximate cause of the death of the user,  (m) Carjacking,  (n) Home-invasion robbery,  (o) Aggravated stalking,  (p) Murder of another human being,  (q) Aggravated fleeing or eluding with serious bodily injury or death,  (r) Resisting an officer with violence to his or her person, or  (s) Felony that is an act of terrorism or is in furtherance of an act of terrorism, including a felony under s. 775.30, s. 775.32, s. 775.33, s. 775.34, or s. 775.35, is murder in the third degree and constitutes a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.777.011.</p> <p>Principal in first degree  Whoever commits any criminal offense against the state, whether felony or misdemeanor, or aids, abets, counsels, hires, or otherwise procures such offense to be committed, and such offense is committed or is attempted to be committed, is a principal in the first degree and may be charged, convicted, and punished as such, whether he or she is or is not actually or constructively present at the commission of such offense.</p>	

State	Summary	Relevant statutes	Notes and/or notable case law (if found)
Florida		<p>F.S.A. § 782.04 Murder.</p> <p>(1)(a)...is murder in the first degree and constitutes a capital felony, punishable as provided in s. 775.082.</p> <p>(3)... the person perpetrating or attempting to perpetrate such felony commits murder in the second degree, which constitutes a felony of the first degree, punishable by imprisonment for a term of years not exceeding life or as provided in s. 775.082, s. 775.083, or s. 775.084.</p> <p>(4)...is murder in the third degree and constitutes a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.</p> <p>F.S.A. § 775.082. Penalties; applicability of sentencing structures; mandatory minimum sentences for certain reoffenders previously released from prison</p>	

State	Summary	Relevant statutes	Notes and/or notable case law (if found)
Georgia	<p>Felony murder for all felonies (not specific list). Classified as first degree murder.</p> <p>No primary limits to aiding and abetting felony murder liability.</p> <p>No secondary limits.</p>	<p>Ga. Code Ann., § 16-5-1. Murder  (c) A person commits the offense of murder when, in the commission of a felony, he or she causes the death of another human being irrespective of malice.  (d) A person commits the offense of murder in the second degree when, in the commission of cruelty to children in the second degree, he or she causes the death of another human being irrespective of malice.</p> <p>Ga. Code Ann., § 16-2-20. Parties to crime; punishment  (a) Every person concerned in the commission of a crime is a party thereto and may be charged with and convicted of commission of the crime.  (b) A person is concerned in the commission of a crime only if he:  (1) Directly commits the crime;  (2) Intentionally causes some other person to commit the crime under such circumstances that the other person is not guilty of any crime either in fact or because of legal incapacity;  (3) Intentionally aids or abets in the commission of the crime; or  (4) Intentionally advises, encourages, hires, counsels, or procures another to commit the crime.</p> <p>Ga. Code Ann., § 16-5-1. Murder  (e)(1) A person convicted of the offense of murder shall be punished by death, by imprisonment for life without parole, or by imprisonment for life.  (2) A person convicted of the offense of murder in the second degree shall be punished by imprisonment for not less than ten nor more than 30 years.</p>	<p>The main difference between felony murder and malice murder is that felony murder does not require proof of malice or intent to kill; instead, proof of the mens rea necessary to commit the underlying felony supplies the mens rea for the felony murder charge. <i>Guyse v. State</i>, 2010, 286 Ga. 574, 690 S.E.2d 406</p> <p>Attempted felony murder is not a crime in Georgia; offense of attempt requires intent to commit a specific offense, while felony murder does not involve an intention to kill, and attempt to commit felony murder would entail intent to perpetrate an unintentional killing, and there is no such criminal offense as an attempt to achieve an unintended result. <i>Jenkins v. State</i>, 2020, 839 S.E.2d 698,</p>

State	Summary	Relevant statutes	Notes and/or notable case law (if found)
Hawaii	Primary limit: legislature abolished felony murder. No secondary limits apply.	The Felony murder rule was abolished by the legislature. HRS §707-701 is Hawaii's "murder in the first degree" statute, where felony murder used to be housed. A full analysis on why they made this decision can be read in the Commentary on §707-701. Some notable lines are pulled and quoted below. NAN/A	"In recognition of the trend toward, and the substantial body of criticism supporting, the abolition of the felony-murder rule, and because of the extremely questionable results which the rule has worked in other jurisdictions, the Code has eliminated from our law the felony-murder rule."

State	Summary	Relevant statutes	Notes and/or notable case law (if found)
Idaho	<p>Full felony murder for the enumerated felonies. Classified as first degree murder.</p> <p>No primary limits to aiding and abetting felony murder liability.</p> <p>Secondary limits: Person causing death must be defendant or an associate of the defendant. Predicate felony must be part of a statutorily enumerated list for maximum liability to attach.</p>	<p>I.C. § 18-4003. § 18-4003. Degrees of murder. (d) Any murder committed in the perpetration of, or attempt to perpetrate, aggravated battery on a child under twelve (12) years of age, arson, rape, robbery, burglary, kidnapping or mayhem, or an act of terrorism, as defined in section 18-8102, Idaho Code, or the use of a weapon of mass destruction, biological weapon or chemical weapon, is murder of the first degree.</p> <p>I.C. § 18-204. Principals defined All persons concerned in the commission of a crime, whether it be felony or misdemeanor, and whether they directly commit the act constituting the offense or aid and abet in its commission, or, not being present, have advised and encouraged its commission, or who, by fraud, contrivance, or force, occasion the intoxication of another for the purpose of causing him to commit any crime, or who, by threats, menaces, command or coercion, compel another to commit any crime, are principals in any crime so committed.</p> <p>I.C. § 18-4004. § 18-4004. Punishment for murder Subject to the provisions of sections 19-2515 and 19-2515A, Idaho Code, every person guilty of murder of the first degree shall be punished by death or by imprisonment for life, provided that a sentence of death shall not be imposed unless the prosecuting attorney filed written notice of intent to seek the death penalty as required under the provisions of section 18-4004A, Idaho Code, and provided further that whenever the death penalty is not imposed the court shall impose a sentence.</p>	<p>An agency theory, rather than a proximate-cause theory, of felony murder applies in Idaho. <i>State v. Pina</i>, 2010, 233 P.3d 71, 149 Idaho 140.</p> <p>There is no crime in Idaho for attempted first-degree murder committed during commission of felony. <i>State v. Wood</i>, 1993, 125 Idaho 911, 876 P.2d 1352,</p> <p>“Malice aforethought” element of felony-murder is satisfied by fact that killing was committed in perpetration of felony. <i>State v. Dunlap</i>, 1993, 125 Idaho 530, 873 P.2d 784, c</p>

State	Summary	Relevant statutes	Notes and/or notable case law (if found)
Idaho		<p>If a jury, or the court if a jury is waived, finds a statutory aggravating circumstance beyond a reasonable doubt but finds that the imposition of the death penalty would be unjust, the court shall impose a fixed life sentence. If a jury, or the court if a jury is waived, does not find a statutory aggravating circumstance beyond a reasonable doubt or if the death penalty is not sought, the court shall impose a life sentence with a minimum period of confinement of not less than ten (10) years during which period of confinement the offender shall not be eligible for parole or discharge or credit or reduction of sentence for good conduct, except for meritorious service.</p> <p>Every person guilty of murder of the second degree is punishable by imprisonment not less than ten (10) years and the imprisonment may extend to life.</p>	

State	Summary	Relevant statutes	Notes and/or notable case law (if found)
<p><b>Illinois</b></p>	<p>Felony murder is a first degree felony for "forcible felonies." List of specific felonies is included as aggravating factors in sentencing.</p> <p>No primary limits to aiding and abetting felony murder liability.</p> <p>Secondary limits: Person causing death must be defendant or an associate of the defendant. Abandonment defense (applies to all aiding/abetting). Predicate felony must be part of a statutorily enumerated list for maximum liability to attach.</p>	<p>720 ILCS 5/9-1. First degree murder; death penalties; exceptions; separate hearings; proof; findings; appellate procedures; reversals</p> <p>(a) A person who kills an individual without lawful justification commits first degree murder if, in performing the acts which cause the death:</p> <p>(3) he or she, acting alone or with one or more participants, commits or attempts to commit a forcible felony other than second degree murder, and in the course of or in furtherance of such crime or flight therefrom, he or she or another participant causes the death of a person.</p> <p>§ 5/5-1. Accountability for Conduct of Another. A person is responsible for conduct which is an element of an offense if the conduct is either that of the person himself, or that of another and he is legally accountable for such conduct as provided in Section 5-2, or both.</p> <p>§ 5/5-2. When accountability exists. A person is legally accountable for the conduct of another when:</p> <p>(a) having a mental state described by the statute defining the offense, he or she causes another to perform the conduct, and the other person in fact or by reason of legal incapacity lacks such a mental state;</p> <p>(b) the statute defining the offense makes him or her so accountable; or</p> <p>(c) either before or during the commission of an offense, and with the intent to promote or facilitate that commission, he or she solicits, aids, abets, agrees, or attempts to aid that other person in the planning or commission of the offense.</p> <p>When 2 or more persons engage in a common criminal design or agreement, any acts in the furtherance of that common design committed by one party are considered to be the acts of all parties to the common design or agreement and all are equally responsible for the consequences of those further acts. Mere presence at the scene of a crime does not render a person accountable for an offense; a person's presence at the scene of a crime, however, may be considered with other circumstances by the trier of fact when determining accountability.</p>	

State	Summary	Relevant statutes	Notes and/or notable case law (if found)
Illinois		<p>A person is not so accountable, however, unless the statute defining the offense provides otherwise, if:</p> <ul style="list-style-type: none"> <li>(1) he or she is a victim of the offense committed;</li> <li>(2) the offense is so defined that his or her conduct was inevitably incident to its commission; or</li> <li>(3) before the commission of the offense, he or she terminates his or her effort to promote or facilitate that commission and does one of the following: (i) wholly deprives his or her prior efforts of effectiveness in that commission, (ii) gives timely warning to the proper law enforcement authorities, or (iii) otherwise makes proper effort to prevent the commission of the offense.</li> </ul> <p>§ 5/5-2. When accountability exists. A person is legally accountable for the conduct of another when: ... Mere presence at the scene of a crime does not render a person accountable for an offense; a person's presence at the scene of a crime, however, may be considered with other circumstances by the trier of fact when determining accountability.</p> <p>A person is not so accountable, however, unless the statute defining the offense provides otherwise, if:</p> <ul style="list-style-type: none"> <li>(1) he or she is a victim of the offense committed;</li> <li>(2) the offense is so defined that his or her conduct was inevitably incident to its commission; or</li> <li>(3) before the commission of the offense, he or she terminates his or her effort to promote or facilitate that commission and does one of the following: (i) wholly deprives his or her prior efforts of effectiveness in that commission, (ii) gives timely warning to the proper law enforcement authorities, or (iii) otherwise makes proper effort to prevent the commission of the offense.</li> </ul> <p>720 ILCS 5/9-1.</p> <p>(b) Aggravating Factors. A defendant who at the time of the commission of the offense has attained the age of 18 or more and who has been found guilty of first degree murder may be sentenced to death if:</p> <ul style="list-style-type: none"> <li>(6) the murdered individual was killed in the course of another felony if:</li> </ul>	

State	Summary	Relevant statutes	Notes and/or notable case law (if found)
Illinois		<p>(a) the murdered individual:</p> <p>(i) was actually killed by the defendant, or</p> <p>(ii) received physical injuries personally inflicted by the defendant substantially contemporaneously with physical injuries caused by one or more persons for whose conduct the defendant is legally accountable under Section 5-2 of this Code, and the physical injuries inflicted by either the defendant or the other person or persons for whose conduct he is legally accountable caused the death of the murdered individual; and</p> <p>(b) in performing the acts which caused the death of the murdered individual or which resulted in physical injuries personally inflicted by the defendant on the murdered individual under the circumstances of subdivision (ii) of subparagraph (a) of paragraph (6) of subsection (b) of this Section, the defendant acted with the intent to kill the murdered individual or with the knowledge that his acts created a strong probability of death or great bodily harm to the murdered individual or another; and</p> <p>(c) the other felony was an inherently violent crime or the attempt to commit an inherently violent crime. In this subparagraph (c), "inherently violent crime" includes, but is not limited to, armed robbery, robbery, predatory criminal sexual assault of a child, aggravated criminal sexual assault, aggravated kidnapping, aggravated vehicular hijacking, aggravated arson, aggravated stalking, residential burglary, and home invasion; or</p> <p>c) Consideration of factors in Aggravation and Mitigation. The court shall consider, or shall instruct the jury to consider any aggravating and any mitigating factors which are relevant to the imposition of the death penalty. Aggravating factors may include but need not be limited to those factors set forth in subsection (b). Mitigating factors may include but need not be limited to the following:</p> <p>(5) the defendant was not personally present during commission of the act or acts causing death;</p> <p>(g) Procedure--Jury. If after weighing the factors in aggravation and mitigation, one or more jurors determines that death is not the appropriate sentence, the court shall sentence the defendant to a term of imprisonment under Chapter V of the Unified Code of Corrections.</p>	

State	Summary	Relevant statutes	Notes and/or notable case law (if found)
Indiana	<p>Felony murder for all enumerated felonies.</p> <p>No primary limits to aiding and abetting felony murder liability.</p> <p>No secondary limits.</p>	<p>IC 35-42-1-1: Murder Sec. 1. A person who:</p> <p>(2) kills another human being while committing or attempting to commit arson, burglary, child molesting, consumer product tampering, criminal deviate conduct (under IC 35-42-4-2 before its repeal), kidnapping, rape, robbery, human trafficking, promotion of human labor trafficking, promotion of human sexual trafficking, promotion of child sexual trafficking, promotion of sexual trafficking of a younger child, child sexual trafficking, or carjacking (before its repeal);</p> <p>(3) kills another human being while committing or attempting to commit:</p> <p>(A) dealing in or manufacturing cocaine or a narcotic drug (IC 35-48-4-1);  (B) dealing in methamphetamine (IC 35-48-4-1.1);  (C) manufacturing methamphetamine (IC 35-48-4-1.2);  (D) dealing in a schedule I, II, or III controlled substance (IC 35-48-4-2);  (E) dealing in a schedule IV controlled substance (IC 35-48-4-3); or  (F) dealing in a schedule V controlled substance; ... commits murder, a felony.</p> <p>IC 35-41-2-4 Aiding, inducing or causing an offense Sec. 4. A person who knowingly or intentionally aids, induces, or causes another person to commit an offense commits that offense, even if the other person:</p> <p>(1) has not been prosecuted for the offense;  (2) has not been convicted of the offense; or  (3) has been acquitted of the offense.</p> <p>IC 35-50-2-3. Murder Sec. 3. (a) A person who commits murder shall be imprisoned for a fixed term of between forty-five (45) and sixty-five (65) years, with the advisory sentence being fifty-five (55) years. In addition, the person may be fined not more than ten thousand dollars (\$10,000).  (b) Notwithstanding subsection (a), a person who was:  (1) at least eighteen (18) years of age at the time the murder was committed may be sentenced to:</p>	<p>The felony murder rule applies when, in committing any of the designated felonies, the felon contributes to the death of “any” person; thus, it matters not whether the death caused is that of the intended victim, a passerby, or even a co-perpetrator. <i>Forney v. State</i>, 2001, 742 N.E.2d</p> <p>Felony-murder rule does not require that underlying felony be completed. <i>Head v. State</i>, 1982, 443 N.E.2d 44</p> <p>Sanquenetti v. State, 727 N.E.2d 437, 439 (Ind. 2000) recognizing statute makes no distinction btwn principal and accessory:)</p>

State	Summary	Relevant statutes	Notes and/or notable case law (if found)
Indiana		<p>(A) death; or            (B) life imprisonment without parole; and            (2) at least sixteen (16) years of age but less than eighteen (18) years of age at the time the murder was committed may be sentenced to life imprisonment without parole; under section 9 of this chapter unless a court determines under IC 35-36-9 that the person is an individual with an intellectual disability.</p> <p>IC 35-50-2-9 Death sentence; life imprisonment without parole            Sec. 9. (a) The state may seek either a death sentence or a sentence of life imprisonment without parole for murder by alleging, on a page separate from the rest of the charging instrument, the existence of at least one (1) of the aggravating circumstances listed in subsection (b). In the sentencing hearing after a person is convicted of murder, the state must prove beyond a reasonable doubt the existence of at least one (1) of the aggravating circumstances alleged. However, the state may not proceed against a defendant under this section if a court determines at a pretrial hearing under IC 35-36-9 that the defendant is an individual with an intellectual disability.            (b) The aggravating circumstances are as follows:            (1) The defendant committed the murder by intentionally killing the victim while committing or attempting to commit any of the following:            (A) Arson (IC 35-43-1-1).            (B) Burglary (IC 35-43-2-1).            (C) Child molesting (IC 35-42-4-3).            (D) Criminal deviate conduct (IC 35-42-4-2) (before its repeal).            (E) Kidnapping (IC 35-42-3-2).            (F) Rape (IC 35-42-4-1).            (G) Robbery (IC 35-42-5-1).            (H) Carjacking (IC 35-42-5-2) (before its repeal).</p>	

State	Summary	Relevant statutes	Notes and/or notable case law (if found)
Indiana		(I) Criminal organization activity (IC 35-45-9-3). (J) Dealing in cocaine or a narcotic drug (IC 35-48-4-1). (K) Criminal confinement (IC 35-42-3-3). (c) The mitigating circumstances that may be considered under this section are as follows: (4) The defendant was an accomplice in a murder committed by another person, and the defendant's participation was relatively minor. (5) The defendant acted under the substantial domination of another person.	

State	Summary	Relevant statutes	Notes and/or notable case law (if found)
Iowa	<p>Felony murder for "forcible felonies." Classified as first degree murder.</p> <p>No primary limits to aiding and abetting felony murder liability.</p> <p>Secondary limit: Mental state or act requirement before felony murder attaches.</p>	<p>I.C.A. § 707.2 murder in the first degree</p> <p>1. A person commits murder in the first degree when the person commits murder under any of the following circumstances:</p> <p>b. The person kills another person while participating in a forcible felony.</p> <p>2. Murder in the first degree is a class "A" felony.</p> <p>I.C.A. § 703.1. Aiding and abetting All persons concerned in the commission of a public offense, whether they directly commit the act constituting the offense or aid and abet its commission, shall be charged, tried and punished as principals. The guilt of a person who aids and abets the commission of a crime must be determined upon the facts which show the part the person had in it, and does not depend upon the degree of another person's guilt.</p> <p>I.C.A. § 703.2. Joint criminal conduct When two or more persons, acting in concert, knowingly participate in a public offense, each is responsible for the acts of the other done in furtherance of the commission of the offense or escape therefrom, and each person's guilt will be the same as that of the person so acting, unless the act was one which the person could not reasonably expect to be done in the furtherance of the commission of the offense.</p> <p>I.C.A. § 902.1. Class "A" felony</p> <p>1. Upon a plea of guilty, a verdict of guilty, or a special verdict upon which a judgment of conviction of a class "A" felony may be rendered, the court shall enter a judgment of conviction and shall commit the defendant into the custody of the director of the Iowa department of corrections for the rest of the defendant's life. Nothing in the Iowa corrections code pertaining to deferred judgment, deferred sentence, suspended sentence, or reconsideration of sentence applies to a class "A" felony, and a person convicted of a class "A" felony shall not be released on parole unless the governor commutes the sentence to a term of years.</p>	<p>Section 703.1 states that aiders/abettors 'shall' be charged as principals</p>

State	Summary	Relevant statutes	Notes and/or notable case law (if found)
Iowa		<p>2. a. Notwithstanding subsection 1, a defendant convicted of murder in the first degree in violation of section 707.2, and who was under the age of eighteen at the time the offense was committed shall receive one of the following sentences:</p> <p>(1) Commitment to the director of the department of corrections for the rest of the defendant's life with no possibility of parole unless the governor commutes the sentence to a term of years.</p> <p>(2) Commitment to the custody of the director of the department of corrections for the rest of the defendant's life with the possibility of parole after serving a minimum term of confinement as determined by the court.</p> <p>(3) Commitment to the custody of the director of the department of corrections for the rest of the defendant's life with the possibility of parole.</p> <p>b. (1) The prosecuting attorney shall provide reasonable notice to the defendant, after conviction and prior to sentencing, of the state's intention to seek a life sentence with no possibility of parole under paragraph "a", subparagraph (1).</p> <p>(2) In determining which sentence to impose, the court shall consider all circumstances including but not limited to the following:</p> <p>d) The degree of participation in the murder by the defendant.</p> <p>(h) The severity of the offense, including any of the following:</p> <p>(i) The commission of the murder while participating in another felony.</p>	

State	Summary	Relevant statutes	Notes and/or notable case law (if found)
<p><b>Kansas</b></p>	<p>Felony murder for "felonies that are "inherently dangerous." Such felonies are listed in the statute. Classified as first degree murder.</p> <p>No primary limits to aiding and abetting felony murder liability.</p> <p>Secondary limits: Person who died must not be participant in predicate felony. Predicate felony must be part of a statutorily enumerated list for maximum liability to attach.</p>	<p>K.S.A. 21-5402 Murder in the first degree</p> <p>(a) Murder in the first degree is the killing of a human being committed:</p> <p>(2) in the commission of, attempt to commit, or flight from any inherently dangerous felony.</p> <p>(b) Murder in the first degree is an off-grid person felony.</p> <p>(c) As used in this section, an "inherently dangerous felony" means:</p> <p>(1) Any of the following felonies, whether such felony is so distinct from the homicide alleged to be a violation of subsection (a)(2) as not to be an ingredient of the homicide alleged to be a violation of subsection (a)(2):</p> <p>(A) Kidnapping, as defined in K.S.A. 21-5408(a), and amendments thereto;</p> <p>(B) aggravated kidnapping, as defined in K.S.A. 21-5408(b), and amendments thereto;</p> <p>(C) robbery, as defined in K.S.A. 21-5420(a), and amendments thereto;</p> <p>(D) aggravated robbery, as defined in K.S.A. 21-5420(b), and amendments thereto;</p> <p>(E) rape, as defined in K.S.A. 21-5503, and amendments thereto;</p> <p>(F) aggravated criminal sodomy, as defined in K.S.A. 21-5504(b), and amendments thereto;</p> <p>(G) abuse of a child, as defined in K.S.A. 21-5602, and amendments thereto;</p> <p>(H) felony theft of property, as defined in K.S.A. 21-5801(a)(1) or (a)(3), and amendments thereto;</p> <p>(I) burglary, as defined in K.S.A. 21-5807(a), and amendments thereto;</p> <p>(J) aggravated burglary, as defined in K.S.A. 21-5807(b), and amendments thereto;</p> <p>(K) arson, as defined in K.S.A. 21-5812(a), and amendments thereto;</p> <p>(L) aggravated arson, as defined in K.S.A. 21-5812(b), and amendments thereto;</p> <p>(M) treason, as defined in K.S.A. 21-5901, and amendments thereto;</p> <p>(N) any felony offense as provided in K.S.A. 21-5703, 21-5705 or 21-5706, and amendments thereto;</p> <p>(O) any felony offense as provided in K.S.A. 21-6308(a) or (b), and amendments thereto;</p>	<p>While foreseeability is requirement to application of felony-murder rule, this requirement is satisfied once it is determined that underlying felony is inherently dangerous to human life. <i>State v. Giddings</i>, 1979, 226 Kan. 110, 595 P.2d 1115.</p> <p>A felon may not be convicted of felony murder for the killing of his co-felon caused not by his acts or actions but by the lawful acts of a victim of aggravated robbery and kidnapping acting in self-defense for the protection of his residence and the occupants thereof. <i>State v. Murphy</i>, 2001, 19 P.3d 80, 270 Kan. 804.</p>

State	Summary	Relevant statutes	Notes and/or notable case law (if found)
Kansas		<p>(P) endangering the food supply, as defined in K.S.A. 21-6317(a), and amendments thereto;  (Q) aggravated endangering the food supply, as defined in K.S.A. 21-6317(b), and amendments thereto;  (R) fleeing or attempting to elude a police officer, as defined in K.S.A. 8-1568(b), and amendments thereto;  (S) aggravated endangering a child, as defined in K.S.A. 21-5601(b)(1), and amendments thereto;  (T) abandonment of a child, as defined in K.S.A. 21-5605(a), and amendments thereto;  (U) aggravated abandonment of a child, as defined in K.S.A. 21-5605(b), and amendments thereto; or  (V) mistreatment of a dependent adult or mistreatment of an elder person, as defined in K.S.A. 21-5417, and amendments thereto; and</p> <p>(2) any of the following felonies, only when such felony is so distinct from the homicide alleged to be a violation of subsection (a)(2) as to not be an ingredient of the homicide alleged to be a violation of subsection (a)(2):  (A) Murder in the first degree, as defined in subsection (a)(1);  (B) murder in the second degree, as defined in K.S.A. 21-5403(a)(1), and amendments thereto;  (C) voluntary manslaughter, as defined in K.S.A. 21-5404(a)(1), and amendments thereto;  (D) aggravated assault, as defined in K.S.A. 21-5412(b), and amendments thereto;  (E) aggravated assault of a law enforcement officer, as defined in K.S.A. 21-5412(d), and amendments thereto;  (F) aggravated battery, as defined in K.S.A. 21-5413(b)(1), and amendments thereto; or  (G) aggravated battery against a law enforcement officer, as defined in K.S.A. 21-5413(d), and amendments thereto.</p>	

State	Summary	Relevant statutes	Notes and/or notable case law (if found)
Kansas		<p>(d) Murder in the first degree as defined in subsection (a)(2) is an alternative method of proving murder in the first degree and is not a separate crime from murder in the first degree as defined in subsection (a)(1). The provisions of K.S.A. 21-5109, and amendments thereto, are not applicable to murder in the first degree as defined in subsection (a)(2). Murder in the first degree as defined in subsection (a)(2) is not a lesser included offense of murder in the first degree as defined in subsection (a)(1), and is not a lesser included offense of capital murder as defined in K.S.A. 21-5401, and amendments thereto. As set forth in subsection (b) of K.S.A. 21-5109, and amendments thereto, there are no lesser included offenses of murder in the first degree under subsection (a)(2).21-5210. Liability for crimes of another</p> <p>(a) A person is criminally responsible for a crime committed by another if such person, acting with the mental culpability required for the commission thereof, advises, hires, counsels or procures the other to commit the crime or intentionally aids the other in committing the conduct constituting the crime.</p> <p>(b) A person liable under subsection (a) is also liable for any other crime committed in pursuance of the intended crime if reasonably foreseeable by such person as a probable consequence of committing or attempting to commit the crime intended.</p> <p>(c) A person liable under this section may be charged with and convicted of the crime although the person alleged to have directly committed the act constituting the crime:</p> <p>(1) Lacked criminal or legal capacity;</p> <p>(2) has not been convicted;</p> <p>(3) has been acquitted; or</p> <p>(4) has been convicted of some other degree of the crime or of some other crime based on the same act.</p> <p>K.S.A. 21-5402(b) Murder in the first degree is an off-grid person felony.</p>	

State	Summary	Relevant statutes	Notes and/or notable case law (if found)
Kansas		<p>K.S.A. 21-6620. Sentencing of certain persons to mandatory minimum term of imprisonment of 25, 40 or 50 years or life without the possibility of parole; determination; evidence presented</p> <p>K.S.A. 21-6617. Persons convicted of capital murder; proceeding to determine if person shall be sentenced to death; notice; trial judge; jury; imprisonment for life without the possibility of parole</p>	

State	Summary	Relevant statutes	Notes and/or notable case law (if found)
<b>Kentucky</b>	Legislature abolished felony murder. No secondary limits apply.	<p>KRS § 507.020. Murder does not provide an independent basis for criminal liability under the theory of felony murder.</p> <p>The editors' notes and commentary provide an explanation. Kentucky Crime Commission/LRC Commentary (1974).</p> <p>KRS 507.020 does not preclude the type of conduct described above from constituting murder. It does, however, abandon the doctrine of felony murder as an independent basis for establishing an offense of homicide. Under the section, deaths occurring in the course of other felonies must be judged under the "intentional" and "wantonness with extreme indifference" provisions of KRS 507.020(1)(a) and (b) and the "wantonness" provision of KRS 507.040. Thus, if a defendant intentionally commits an act of killing during a felony his guilt is to be determined under KRS 507.020(1)(a). If a felony participant other than the defendant commits an act of killing, and if a jury should determine from all the circumstances surrounding the felony that the defendant's participation in that felony constituted wantonness manifesting extreme indifference to human life, he is guilty of murder under KRS 507.020(1)(b). On the other hand, if the jury should determine that his participation constituted wantonness not manifesting extreme indifference to human life, he is guilty only of manslaughter in the second degree, KRS 507.040." Kentucky Crime Commission/LRC Commentary (1974).</p>	Abolished by legislature

State	Summary	Relevant statutes	Notes and/or notable case law (if found)
Louisiana	<p>Felony murder for enumerated felonies. Classified as first degree murder if intent is present. Second degree is no intent.</p> <p>No primary limits to aiding and abetting felony murder liability.</p> <p>Secondary limits: Mental state or act requirement before maximum liability attaches. Predicate felony must be part of a statutorily enumerated list for maximum liability to attach.</p>	<p>LSA-R.S. 14 §30. First degree murder  A. First degree murder is the killing of a human being:  (1) When the offender has specific intent to kill or to inflict great bodily harm and is engaged in the perpetration or attempted perpetration of aggravated kidnapping, second degree kidnapping, aggravated escape, aggravated arson, aggravated or first degree rape, forcible or second degree rape, aggravated burglary, armed robbery, assault by drive-by shooting, first degree robbery, second degree robbery, simple robbery, terrorism, cruelty to juveniles, or second degree cruelty to juveniles.</p> <p>LSA-R.S. 14 § 30.1. Second degree murder  A. Second degree murder is the killing of a human being:  (2) When the offender is engaged in the perpetration or attempted perpetration of aggravated or first degree rape, forcible or second degree rape, aggravated arson, aggravated burglary, aggravated kidnapping, second degree kidnapping, aggravated escape, assault by drive-by shooting, armed robbery, first degree robbery, second degree robbery, simple robbery, cruelty to juveniles, second degree cruelty to juveniles, or terrorism, even though he has no intent to kill or to inflict great bodily harm.</p> <p>LSA-R.S. 14:24 § 24. Principals  All persons concerned in the commission of a crime, whether present or absent, and whether they directly commit the act constituting the offense, aid and abet in its commission, or directly or indirectly counsel or procure another to commit the crime, are principals.</p> <p>LSA-R.S. 14 §30. First degree murder  C. (1) If the district attorney seeks a capital verdict, the offender shall be punished by death or life imprisonment at hard labor without benefit of parole, probation, or suspension of sentence, in accordance with the determination of the jury. The provisions of Code of Criminal Procedure Article 782 relative to cases in which punishment may be capital shall apply.</p>	<p>"Louisiana has followed the common-law rule that a homicide committed in the course of a felony is murder. State v. McCollum, 135 La. 432, 65 So. 600 (1914); State v. Werner, 144 La. 380, 80 So. 596 (1919)...This section has adopted this restricted view, and subdivision (2) applies the felony-murder doctrine only to the more serious and dangerous felonies, e.g., aggravated arson, aggravated burglary, aggravated kidnapping, aggravated rape, armed robbery or simple robbery. A homicide committed in the perpetration of other felonies will not be murder per se; but may still be murder if it comes within the provisions of subdivision (1)." Reporter's Comment, <i>Subdivision (2) --Felony-murder doctrine</i>, LSA-R.S. 14 §30.</p> <p>The felony murder prong of second degree murder statute does not require proof of specific intent because the underlying felony supplies the culpable mental state. State v. Kelly, App. 5 Cir.2018, 239 So.3d 432, 17-442 (La.App. 5 Cir. 2/21/18).</p>

State	Summary	Relevant statutes	Notes and/or notable case law (if found)
Louisiana		<p>(2) If the district attorney does not seek a capital verdict, the offender shall be punished by life imprisonment at hard labor without benefit of parole, probation or suspension of sentence. The provisions of Code of Criminal Procedure Article 782 relative to cases in which punishment is necessarily confinement at hard labor shall apply.</p> <p>LSA-R.S. 14 § 30.1. Second degree murder  B. Whoever commits the crime of second degree murder shall be punished by life imprisonment at hard labor without benefit of parole, probation, or suspension of sentence.</p>	

State	Summary	Relevant statutes	Notes and/or notable case law (if found)
<p><b>Maine</b></p>	<p>Felony murder for enumerated felonies. Death must be "reasonably foreseeable." Statute provides for an affirmative defense.</p> <p>No primary limits to aiding and abetting felony murder liability.</p> <p>Secondary limits: Mental state or act requirement before felony murder attaches. Affirmative defense. Felony murder liability only applies to statutorily enumerated list of predicate felonies. Predicate felony must be part of a statutorily enumerated list for maximum liability to attach.</p>	<p>7-A M.R.S.A. § 202. Felony murder</p> <p>1. A person is guilty of felony murder if acting alone or with one or more other persons in the commission of, or an attempt to commit, or immediate flight after committing or attempting to commit, murder, robbery, burglary, kidnapping, arson, gross sexual assault, or escape, the person or another participant in fact causes the death of a human being, and the death is a reasonably foreseeable consequence of such commission, attempt or flight.</p> <p>2. It is an affirmative defense to prosecution under this section that the defendant:</p> <p>A. Did not commit the homicidal act or in any way solicit, command, induce, procure or aid the commission thereof;</p> <p>B. Was not armed with a dangerous weapon, or other weapon which under circumstances indicated a readiness to inflict serious bodily injury;</p> <p>C. Reasonably believed that no other participant was armed with such a weapon; and</p> <p>D. Reasonably believed that no other participant intended to engage in conduct likely to result in death or serious bodily injury.</p> <p>3. Felony murder is a Class A crime.</p> <p>7-A M.R.S.A. § 202. Felony murder affirmative defense</p> <p>2. It is an affirmative defense to prosecution under this section that the defendant:</p> <p>A. Did not commit the homicidal act or in any way solicit, command, induce, procure or aid the commission thereof;</p> <p>B. Was not armed with a dangerous weapon, or other weapon which under circumstances indicated a readiness to inflict serious bodily injury;</p> <p>C. Reasonably believed that no other participant was armed with such a weapon; and</p>	

State	Summary	Relevant statutes	Notes and/or notable case law (if found)
Maine		<p>D. Reasonably believed that no other participant intended to engage in conduct likely to result in death or serious bodily injury.</p> <p>17-A M.R.S.A. § 1604. Imprisonment for crime other than murder.</p> <p>1. Maximum terms of imprisonment dependent on crime class. Unless a different maximum term of imprisonment is specified by statute, the maximum term of imprisonment is as follows:</p> <p>A. In the case of a Class A crime, 30 years;</p> <p>17-A M.R.S.A. § 1603. Imprisonment for crime of murder.</p> <p>1. Sentence. A person convicted of the crime of murder must be sentenced to imprisonment for life or for any term of years that is not less than 25. The sentence of the court must specify the length of the sentence to be served and must commit the person to the Department of Corrections.</p>	

State	Summary	Relevant statutes	Notes and/or notable case law (if found)
<b>Maryland</b>	<p>Felony murder classified as first degree murder, however case law makes it clear that second degree felony murder is possible for other felonies not listed.</p> <p>No primary limits to aiding and abetting felony murder liability.</p> <p>Secondary limits: Abandonment defense (applies to all aiding/abetting). Mental state or act requirement before maximum liability attaches.</p>	<p>Md. CRIMINAL LAW Code Ann. § 2-201.</p> <p>(a) A murder is in the first degree if it is:</p> <p>(4) committed in the perpetration of or an attempt to perpetrate:</p> <p>(i) arson in the first degree;</p> <p>(ii) burning a barn, stable, tobacco house, warehouse, or other outbuilding that:</p> <ol style="list-style-type: none"> <li>1. is not parcel to a dwelling; and</li> <li>2. contains cattle, goods, wares, merchandise, horses, grain, hay, or tobacco;</li> </ol> <p>(iii) burglary in the first, second, or third degree;</p> <p>(iv) carjacking or armed carjacking;</p> <p>(v) escape in the first degree from a State correctional facility or a local correctional facility;</p> <p>(vi) kidnapping under § 3-502 or § 3-503(a)(2) of this article;</p> <p>(vii) mayhem;</p> <p>(viii) rape;</p> <p>(ix) robbery under § 3-402 or § 3-403 of this article;</p> <p>(x) sexual offense in the first or second degree;</p> <p>(xi) sodomy as that crime existed before October 1, 2020; or</p> <p>(xii) a violation of § 4-503 of this article concerning destructive devices.</p> <p>17-A § 57. Criminal liability for conduct of another; accomplices</p> <ol style="list-style-type: none"> <li>1. A person may be guilty of a crime if it is committed by the conduct of another person for which the person is legally accountable as provided in this section.</li> <li>2. A person is legally accountable for the conduct of another person when: <ol style="list-style-type: none"> <li>A. Acting with the intention, knowledge, recklessness or criminal negligence that is sufficient for the commission of the crime, the person causes an innocent person, or a person not criminally responsible, to engage in such conduct; or</li> <li>B. The person is made accountable for the conduct of such other person by the law defining the crime; or</li> <li>C. The person is an accomplice of such other person in the commission of the crime, as provided in subsection 3.</li> </ol> </li> </ol>	<p>A felony not listed in the statute governing first-degree murder will nonetheless support second-degree felony murder if the underlying felony is sufficiently dangerous to life, as judged by the nature of the crime or by the manner in which it was perpetrated. <i>Goldsberry v. State</i>, 2008, 957 A.2d 1110, 182 Md.App. 394,</p> <p>The felony-murder doctrine applies to both first- and second-degree murder. <i>McMillan v. State</i>, 2008, 956 A.2d 716, 181 Md.App. 298,</p> <p>Because conviction for felony murder requires no specific intent to kill and criminal attempt is specific intent crime, attempted felony murder is not a crime. <i>Abernathy v. State</i>, 1996, 675 A.2d 115, 109 Md.App. 364,</p>

State	Summary	Relevant statutes	Notes and/or notable case law (if found)
Maryland		<p>3. A person is an accomplice of another person in the commission of a crime if:</p> <p>A. With the intent of promoting or facilitating the commission of the crime, the person solicits such other person to commit the crime, or aids or agrees to aid or attempts to aid such other person in planning or committing the crime. A person is an accomplice under this subsection to any crime the commission of which was a reasonably foreseeable consequence of the person's conduct; or</p> <p>B. The person's conduct is expressly declared by law to establish the person's complicity.</p> <p>4. A person who is legally incapable of committing a particular crime may be guilty thereof if it is committed by the conduct of another person for which the person is legally accountable.</p> <p>5. Unless otherwise expressly provided, a person is not an accomplice in a crime committed by another person if:</p> <p>A. The person is the victim of that crime;</p> <p>B. The crime is so defined that it cannot be committed without the person's cooperation; or</p> <p>C. The person terminates complicity prior to the commission of the crime by:</p> <p>(1) Informing the person's accomplice that the person has abandoned the criminal activity; and</p> <p>(2) Leaving the scene of the prospective crime, if the person is present thereat.</p> <p>6. An accomplice may be convicted on proof of the commission of the crime and of the accomplice's complicity therein, though the person claimed to have committed the crime has not been prosecuted or convicted, or has been convicted of a different crime or degree of crime, or is not subject to criminal prosecution pursuant to section 10-A, subsection 1, or has an immunity to prosecution or conviction, or has been acquitted.</p> <p>17-A 17-A § 57, subd. 5Md. CRIMINAL LAW Code Ann. § 2-201.</p>	

State	Summary	Relevant statutes	Notes and/or notable case law (if found)
Maryland		<p>(b)(1) A person who commits a murder in the first degree is guilty of a felony and on conviction shall be sentenced to:</p> <p>(i) imprisonment for life without the possibility of parole; or</p> <p>(ii) imprisonment for life.</p> <p>(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.</p>	

State	Summary	Relevant statutes	Notes and/or notable case law (if found)
<b>Massachusetts</b>	State supreme court abolished felony murder; no secondary limits apply.	Abolished by MA Supreme Court.	<p>Commonwealth v. Brown, 477 Mass. 805, 81 N.E.3d 1173 (2017). Felony murder is now only an aggravating element of murder (potentially impacting the degree of murder defendant is charged with), not an independent theory of liability.</p> <p>"It is time for us to eliminate the last vestige of these two abandoned principles and end their application in our common law of felony-murder. Doing so means that criminal liability for murder in the first or second degree will be predicated on proof that the defendant acted with malice or shared the intent of a joint venture who acted with malice. The sole remaining function of felony-murder will be to elevate what would otherwise be murder in the second degree to murder in the first degree where the killing occurs during the commission of a life felony."  Commonwealth v. Brown, 477 Mass. 805, 81, 39 N.E.3d 1173 (2017) (Gants, C.J. Concurring).</p>

State	Summary	Relevant statutes	Notes and/or notable case law (if found)
Michigan	State supreme court abolished felony murder; no secondary limits apply.	<p>Mich. 750.316 First degree murder; penalty; definitions.</p> <p>(1) Except as provided in sections 25 and 25a of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.25 and 769.25a, a person who commits any of the following is guilty of first degree murder and shall be punished by imprisonment for life without eligibility for parole:</p> <p>(a) Murder perpetrated by means of poison, lying in wait, or any other willful, deliberate, and premeditated killing.</p> <p>(b) Murder committed in the perpetration of, or attempt to perpetrate, arson, criminal sexual conduct in the first, second, or third degree, child abuse in the first degree, a major controlled substance offense, robbery, carjacking, breaking and entering of a dwelling, home invasion in the first or second degree, larceny of any kind, extortion, kidnapping, vulnerable adult abuse in the first or second degree under section 145n, torture under section 85, aggravated stalking under section 411i, or unlawful imprisonment under section 349b.</p> <p>(c) A murder of a peace officer or a corrections officer committed while the peace officer or corrections officer is lawfully engaged in the performance of any of his or her duties as a peace officer or corrections officer, knowing that the peace officer or corrections officer is a peace officer or corrections officer engaged in the performance of his or her duty as a peace officer or corrections officer.</p> <p>(2) As used in this section:</p> <p>(a) "Arson" means a felony violation of chapter X.</p> <p>(b) "Corrections officer" means any of the following:</p> <p>(i) A prison or jail guard or other prison or jail personnel.</p> <p>(ii) Any of the personnel of a boot camp, special alternative incarceration unit, or other minimum security correctional facility.</p> <p>(iii) A parole or probation officer.</p> <p>(c) "Major controlled substance offense" means any of the following:</p> <p>(i) A violation of section 7401(2)(a)(i) to (iii) of the public health code, 1978 PA 368, MCL 333.7401.</p>	Abolished by court in People v. Aaron, 409 Mich. 672, 299 N.W.2d 304 (Michigan Supreme Court 1980).

State	Summary	Relevant statutes	Notes and/or notable case law (if found)
Michigan		<p>(ii) A violation of section 7403(2)(a)(i) to (iii) of the public health code, 1978 PA 368, MCL 333.7403.</p> <p>(iii) A conspiracy to commit an offense listed in subparagraph (i) or (ii).</p> <p>(d) "Peace officer" means any of the following:</p> <p>(i) A police or conservation officer of this state or a political subdivision of this state.</p> <p>(ii) A police or conservation officer of the United States.</p> <p>(iii) A police or conservation officer of another state or a political subdivision of another state.</p> <p>767.39 Abolition of distinction between accessory and principal.</p> <p>Every person concerned in the commission of an offense, whether he directly commits the act constituting the offense or procures, counsels, aids, or abets in its commission may hereafter be prosecuted, indicted, tried and on conviction shall be punished as if he had directly committed such offense.</p>	

State	Summary	Relevant statutes	Notes and/or notable case law (if found)
Minnesota	<p>Felony murder classified as first degree for listed felonies; second degree murder for all other felonies that pose a "special danger to human life" in the abstract and as committed.</p> <p>No primary limits to aiding and abetting felony murder liability.</p> <p>Secondary limits: Person causing death must be defendant or an associate of the defendant. Abandonment defense (applies to all aiding/abetting). Predicate felony must be part of a statutorily enumerated list for maximum liability to attach.</p>	<p>M.S.A. §609.185. Murder in the first degree  (a) Whoever does any of the following is guilty of murder in the first degree and shall be sentenced to imprisonment for life:  (2) causes the death of a human being while committing or attempting to commit criminal sexual conduct in the first or second degree with force or violence, either upon or affecting the person or another;  (3) causes the death of a human being with intent to effect the death of the person or another, while committing or attempting to commit burglary, aggravated robbery, kidnapping, arson in the first or second degree, a drive-by shooting, tampering with a witness in the first degree, escape from custody, or any felony violation of chapter 152 involving the unlawful sale of a controlled substance;  (5) causes the death of a minor while committing child abuse, when the perpetrator has engaged in a past pattern of child abuse upon a child and the death occurs under circumstances manifesting an extreme indifference to human life;  (6) causes the death of a human being while committing domestic abuse, when the perpetrator has engaged in a past pattern of domestic abuse upon the victim or upon another family or household member and the death occurs under circumstances manifesting an extreme indifference to human life; or  (7) causes the death of a human being while committing, conspiring to commit, or attempting to commit a felony crime to further terrorism and the death occurs under circumstances manifesting an extreme indifference to human life.</p> <p>M.S.A. §609.19. Murder in the second degree  Subd. 2. Unintentional murders. Whoever does either of the following is guilty of unintentional murder in the second degree and may be sentenced to imprisonment for not more than 40 years:</p>	

State	Summary	Relevant statutes	Notes and/or notable case law (if found)
Minnesota		<p>(1) causes the death of a human being, without intent to effect the death of any person, while committing or attempting to commit a felony offense other than criminal sexual conduct in the first or second degree with force or violence or a drive-by shooting; or 609.05.</p> <p>Liability for crimes of another</p> <p>Subdivision 1. Aiding, abetting; liability. A person is criminally liable for a crime committed by another if the person intentionally aids, advises, hires, counsels, or conspires with or otherwise procures the other to commit the crime.</p> <p>Subd. 2. Expansive liability. A person liable under subdivision 1 is also liable for any other crime committed in pursuance of the intended crime if reasonably foreseeable by the person as a probable consequence of committing or attempting to commit the crime intended.</p> <p>Subd. 3. Abandonment of criminal purpose. A person who intentionally aids, advises, hires, counsels, or conspires with or otherwise procures another to commit a crime and thereafter abandons that purpose and makes a reasonable effort to prevent the commission of the crime prior to its commission is not liable if the crime is thereafter committed.</p> <p>Subd. 4. Circumstances of conviction. A person liable under this section may be charged with and convicted of the crime although the person who directly committed it has not been convicted, or has been convicted of some other degree of the crime or of some other crime based on the same act, or if the person is a juvenile who has not been found delinquent for the act.</p> <p>Subd. 5. Definition. For purposes of this section, a crime also includes an act committed by a juvenile that would be a crime if committed by an adult.</p> <p>M.S.A. §609.185. Murder in the first degree  (a) Whoever does any of the following is guilty of murder in the first degree and shall be sentenced to imprisonment for life:</p>	

State	Summary	Relevant statutes	Notes and/or notable case law (if found)
Minnesota		<p>M.S.A. §609.19. Murder in the second degree Subd. 2. Unintentional murders.</p> <p>Whoever does either of the following is guilty of unintentional murder in the second degree and may be sentenced to imprisonment for not more than 40 years:</p>	

State	Summary	Relevant statutes	Notes and/or notable case law (if found)
<b>Mississippi</b>	<p>Felony murder for specific felonies listed are capital murder. All other felonies are first degree murder.</p> <p>No primary limits to aiding and abetting felony murder liability.</p> <p>Secondary limit: Predicate felony must be part of a statutorily enumerated list for maximum liability to attach.</p>	<p>Miss. Code Ann. § 97-3-19. “Murder” and “capital murder” defined</p> <p>(1) The killing of a human being without the authority of law by any means or in any manner shall be murder in the following cases:</p> <p>(c) When done without any design to effect death by any person engaged in the commission of any felony other than rape, kidnapping, burglary, arson, robbery, sexual battery, unnatural intercourse with any child under the age of twelve (12), or nonconsensual unnatural intercourse with mankind, or felonious abuse and/or battery of a child in violation of subsection (2) of Section 97-5-39, or in any attempt to commit such felonies, shall be first-degree murder;</p> <p>(2) The killing of a human being without the authority of law by any means or in any manner shall be capital murder in the following cases:</p> <p>(e) When done with or without any design to effect death, by any person engaged in the commission of the crime of rape, burglary, kidnapping, arson, robbery, sexual battery, unnatural intercourse with any child under the age of twelve (12), or nonconsensual unnatural intercourse with mankind, or in any attempt to commit such felonies;</p> <p>Miss. Code. Ann. § 97-1-3. Accessory before fact deemed principal</p> <p>Every person who shall be an accessory to any felony, before the fact, shall be deemed and considered a principal, and shall be indicted and punished as such; and this whether the principal have been previously convicted or not.</p> <p>Miss. Code Ann. § 97-3-21. Murder and capital murder, punishment</p> <p>1) Every person who shall be convicted of first-degree murder shall be sentenced by the court to imprisonment for life in the custody of the Department of Corrections.</p> <p>(3) Every person who shall be convicted of capital murder shall be sentenced (a) to death; (b) to imprisonment for life in the State Penitentiary without parole; or (c) to imprisonment for life in the State Penitentiary with eligibility for parole as provided in Section 47-7-3(1)(f).</p>	

State	Summary	Relevant statutes	Notes and/or notable case law (if found)
<b>Missouri</b>	<p>Felony murder for all felonies (not specific list). Classified as second degree murder.</p> <p>No primary limits to aiding and abetting felony murder liability.</p> <p>Secondary limit: Abandonment defense (applies to all aiding/abetting).</p>	<p>V.A.M.S. 565.021. Second degree murder, penalty</p> <p>1. A person commits the offense of murder in the second degree if he or she:</p> <p>(2) Commits or attempts to commit any felony, and, in the perpetration or the attempted perpetration of such felony or in the flight from the perpetration or attempted perpetration of such felony, another person is killed as a result of the perpetration or attempted perpetration of such felony or immediate flight from the perpetration of such felony or attempted perpetration of such felony.</p> <p>2. The offense of murder in the second degree is a class A felony, and the punishment for second degree murder shall be in addition to the punishment for commission of a related felony or attempted felony, other than murder or manslaughter.</p> <p>V.A.M.S. 562.041. Responsibility for the conduct of another</p> <p>1. A person is criminally responsible for the conduct of another when:</p> <p>(1) The statute defining the offense makes him or her so responsible; or</p> <p>(2) Either before or during the commission of an offense with the purpose of promoting the commission of an offense, he or she aids or agrees to aid or attempts to aid such other person in planning, committing or attempting to commit the offense.</p> <p>2. However, a person is not so responsible if:</p> <p>(1) He or she is the victim of the offense committed or attempted;</p> <p>(2) The offense is so defined that his or her conduct was necessarily incident to the commission or attempt to commit the offense. If his or her conduct constitutes a related but separate offense, he or she is criminally responsible for that offense but not for the conduct or offense committed or attempted by the other person;</p> <p>(3) Before the commission of the offense such person abandons his or her purpose and gives timely warning to law enforcement authorities or otherwise makes proper effort to prevent the commission of the offense.</p>	

State	Summary	Relevant statutes	Notes and/or notable case law (if found)
Missouri		<p>3. The defense provided by subdivision (3) of subsection 2 of this section is an affirmative defense.</p> <p>V.A.M.S. 562.041. Responsibility for the conduct of another</p> <p>2. However, a person is not so responsible if:</p> <p>(1) He or she is the victim of the offense committed or attempted;</p> <p>(2) The offense is so defined that his or her conduct was necessarily incident to the commission or attempt to commit the offense. If his or her conduct constitutes a related but separate offense, he or she is criminally responsible for that offense but not for the conduct or offense committed or attempted by the other person;</p> <p>(3) Before the commission of the offense such person abandons his or her purpose and gives timely warning to law enforcement authorities or otherwise makes proper effort to prevent the commission of the offense.</p> <p>3. The defense provided by subdivision (3) of subsection 2 of this section is an affirmative defense.</p> <p>V.A.M.S. 565.021. Second degree murder, penalty</p> <p>2. The offense of murder in the second degree is a class A felony, and the punishment for second degree murder shall be in addition to the punishment for commission of a related felony or attempted felony, other than murder or manslaughter.</p>	

State	Summary	Relevant statutes	Notes and/or notable case law (if found)
<b>Montana</b>	<p>Full felony murder rule for enumerated felonies. Classified as "deliberate homicide."</p> <p>No primary limits to aiding and abetting felony murder liability.</p> <p>Secondary limit: Abandonment defense (applies to all aiding/abetting). Predicate felony must be part of a statutorily enumerated list for maximum liability to attach.</p>	<p>45-5-102, MCA. Deliberate homicide.  (1) A person commits the offense of deliberate homicide if:  (b) the person attempts to commit, commits, or is legally accountable for the attempt or commission of robbery, sexual intercourse without consent, arson, burglary, kidnapping, aggravated kidnapping, felonious escape, assault with a weapon, aggravated assault, or any other forcible felony and in the course of the forcible felony or flight thereafter, the person or any person legally accountable for the crime causes the death of another human being</p> <p>45-2-301, MCA. Accountability for conduct of another  A person is responsible for conduct that is an element of an offense if the conduct is either that of the person or that of another and the person is legally accountable for the conduct as provided in 45-2-302, or both.</p> <p>45-2-302, MCA. When accountability exists  A person is legally accountable for the conduct of another when:  (1) having a mental state described by the statute defining the offense, the person causes another to perform the conduct, regardless of the legal capacity or mental state of the other person;  (2) the statute defining the offense makes the person accountable; or  (3) either before or during the commission of an offense with the purpose to promote or facilitate the commission, the person solicits, aids, abets, agrees, or attempts to aid the other person in the planning or commission of the offense. However, a person is not accountable if:  (a) the person is a victim of the offense committed, unless the statute defining the offense provides otherwise; or  (b) before the commission of the offense, the person terminates the person's effort to promote or facilitate the commission and does one of the following:  (i) wholly deprives the person's prior efforts of effectiveness in the commission;</p>	

State	Summary	Relevant statutes	Notes and/or notable case law (if found)
Montana		<p>(ii) gives timely warning to the proper law enforcement authorities; or            (iii) otherwise makes proper effort to prevent the commission of the offense.</p> <p>45-2-302, MCA. When accountability exists            A person is legally accountable for the conduct of another when:            (1) having a mental state described by the statute defining the offense, the person causes another to perform the conduct, regardless of the legal capacity or mental state of the other person;            (2) the statute defining the offense makes the person accountable; or            (3) ...However, a person is not accountable if:            (a) the person is a victim of the offense committed, unless the statute defining the offense provides otherwise; or            (b) before the commission of the offense, the person terminates the person's effort to promote or facilitate the commission and does one of the following:            (i) wholly deprives the person's prior efforts of effectiveness in the commission;            (ii) gives timely warning to the proper law enforcement authorities; or            (iii) otherwise makes proper effort to prevent the commission of the offense.</p> <p>45-5-102, MCA. Deliberate homicide.            (2) A person convicted of the offense of deliberate homicide shall be punished by death as provided in 46-18-301 through 46-18-310, unless the person is less than 18 years of age at the time of the commission of the offense, by life imprisonment, or by imprisonment in the state prison for a term of not less than 10 years or more than 100 years, except as provided in 46-18-219 and 46-18-222.</p>	

State	Summary	Relevant statutes	Notes and/or notable case law (if found)
<b>Nebraska</b>	<p>Full felony murder for the enumerated felonies. Classified as first degree murder.</p> <p>No primary limits to aiding and abetting felony murder liability.</p> <p>Secondary limit: Predicate felony must be part of a statutorily enumerated list for maximum liability to attach.</p>	<p>Neb. Rev. St. § 28-303 Murder in the first degree; penalty. A person commits murder in the first degree if he or she kills another person (2) in the perpetration of or attempt to perpetrate any sexual assault in the first degree, arson, robbery, kidnapping, hijacking of any public or private means of transportation, or burglary</p> <p>The determination of whether murder in the first degree shall be punished as a Class I or Class IA felony shall be made pursuant to sections 29-2519 to 29-2524.</p> <p>Neb. Rev. St. § 28-206. Prosecuting for aiding and abetting A person who aids, abets, procures, or causes another to commit any offense may be prosecuted and punished as if he were the principal offender.</p> <p>Neb.Rev.St. § 28-303 Murder in the first degree; penalty. The determination of whether murder in the first degree shall be punished as a Class I or Class IA felony shall be made pursuant to sections 29-2519 to 29-2524.</p>	

State	Summary	Relevant statutes	Notes and/or notable case law (if found)
<p><b>Nevada</b></p>	<p>Felony murder for all enumerated felonies is classified as first degree murder. For other felonies that are inherently dangerous, it is second degree murder.</p> <p>No primary limits to aiding and abetting felony murder liability.</p> <p>Secondary limit: Predicate felony must be part of a statutorily enumerated list for maximum liability to attach.</p>	<p>N.R.S. 200.030. Degrees of murder; penalties</p> <p>1. Murder of the first degree is murder which is: (b) Committed in the perpetration or attempted perpetration of sexual assault, kidnapping, arson, robbery, burglary, invasion of the home, sexual abuse of a child, sexual molestation of a child under the age of 14 years, child abuse or abuse of an older person or vulnerable person pursuant to NRS 200.5099;</p> <p>2. Murder of the second degree is all other kinds of murder.</p> <p>N.R.S. 195.020. Principals</p> <p>Every person concerned in the commission of a felony, gross misdemeanor or misdemeanor, whether the person directly commits the act constituting the offense, or aids or abets in its commission, and whether present or absent; and every person who, directly or indirectly, counsels, encourages, hires, commands, induces or otherwise procures another to commit a felony, gross misdemeanor or misdemeanor is a principal, and shall be proceeded against and punished as such. The fact that the person aided, abetted, counseled, encouraged, hired, commanded, induced or procured, could not or did not entertain a criminal intent shall not be a defense to any person aiding, abetting, counseling, encouraging, hiring, commanding, inducing or procuring him or her.</p> <p>N.R.S. 200.030. Degrees of murder; penalties</p> <p>4. A person convicted of murder of the first degree is guilty of a category A felony and shall be punished: (a) By death, only if one or more aggravating circumstances are found and any mitigating circumstance or circumstances which are found do not outweigh the aggravating circumstance or circumstances, unless a court has made a finding pursuant to NRS 174.098 that the defendant is a person with an intellectual disability and has stricken the notice of intent to seek the death penalty; or (b) By imprisonment in the state prison:</p>	<p>The second-degree felony murder rule applies only where the felony is inherently dangerous, where death or injury is a directly foreseeable consequence of the illegal act, and where there is an immediate and direct causal relationship, without the intervention of some other source or agency, between the actions of the defendant and the victim's death.</p> <p><i>Labastida v. State</i>, 1999, 986 P.2d 443, 115 Nev. 298, certiorari dismissed 117 S.Ct. 1840, 520 U.S. 1237, 137 L.Ed.2d 1044.</p>

State	Summary	Relevant statutes	Notes and/or notable case law (if found)
Nevada		<p>(1) For life without the possibility of parole;  (2) For life with the possibility of parole, with eligibility for parole beginning when a minimum of 20 years has been served; or  (3) For a definite term of 50 years, with eligibility for parole beginning when a minimum of 20 years has been served.</p> <p>A determination of whether aggravating circumstances exist is not necessary to fix the penalty at imprisonment for life with or without the possibility of parole.</p> <p>5. A person convicted of murder of the second degree is guilty of a category A felony and shall be punished by imprisonment in the state prison:</p> <p>(a) For life with the possibility of parole, with eligibility for parole beginning when a minimum of 10 years has been served; or  (b) For a definite term of 25 years, with eligibility for parole beginning when a minimum of 10 years has been served.</p>	

State	Summary	Relevant statutes	Notes and/or notable case law (if found)
<p><b>New Hampshire</b></p>	<p>Felony murder is first degree murder for the enumerated felonies. For all other class A felonies it is second degree murder.</p> <p>No primary limits to aiding and abetting felony murder liability.</p> <p>Secondary limit: Abandonment defense (applies to all aiding/abetting). Predicate felony must be part of a statutorily enumerated list for maximum liability to attach.</p>	<p>N.H. Rev. Stat. § 630:1-a First Degree Murder. I. A person is guilty of murder in the first degree if he: (b) Knowingly causes the death of: (1) Another before, after, while engaged in the commission of, or while attempting to commit felonious sexual assault as defined in RSA 632-A:3; (2) Another before, after, while engaged in the commission of, or while attempting to commit robbery or burglary while armed with a deadly weapon, the death being caused by the use of such weapon; (3) Another in perpetrating or attempting to perpetrate arson as defined in RSA 634:1, I, II, or III;</p> <p>N.H. Rev. Stat. § 630:1-b Second Degree Murder. I. A person is guilty of murder in the second degree if: (b) He causes such death recklessly under circumstances manifesting an extreme indifference to the value of human life. Such recklessness and indifference are presumed if the actor causes the death by the use of a deadly weapon in the commission of, or in an attempt to commit, or in immediate flight after committing or attempting to commit any class A felony.</p> <p>N.H. Rev. Stat. § 626:8 Criminal Liability for Conduct of Another. I. A person is guilty of an offense if it is committed by his own conduct or by the conduct of another person for which he is legally accountable, or both. II. A person is legally accountable for the conduct of another person when: (a) Acting with the kind of culpability that is sufficient for the commission of the offense, he causes an innocent or irresponsible person to engage in such conduct; or (b) He is made accountable for the conduct of such other person by the law defining the offense; or (c) He is an accomplice of such other person in the commission of the offense. III. A person is an accomplice of another person in the commission of an offense if: (a) With the purpose of promoting or facilitating the commission of the offense, he solicits such other person in committing it, or aids or agrees or attempts to aid such other person in planning or committing it; or</p>	

State	Summary	Relevant statutes	Notes and/or notable case law (if found)
<p><b>New Hampshire</b></p>		<p>(b) His conduct is expressly declared by law to establish his complicity.</p> <p>IV. Notwithstanding the requirement of a purpose as set forth in paragraph III(a), when causing a particular result is an element of an offense, an accomplice in the conduct causing such result is an accomplice in the commission of that offense, if he acts with the kind of culpability, if any, with respect to that result that is sufficient for the commission of the offense. In other words, to establish accomplice liability under this section, it shall not be necessary that the accomplice act with a purpose to promote or facilitate the offense. An accomplice in conduct can be found criminally liable for causing a prohibited result, provided the result was a reasonably foreseeable consequence of the conduct and the accomplice acted purposely, knowingly, recklessly, or negligently with respect to that result, as required for the commission of the offense.</p> <p>V. A person who is legally incapable of committing a particular offense himself may be guilty thereof if it is committed by the conduct of another person for which he is legally accountable, unless such liability is inconsistent with the purpose of the provision establishing his incapacity.</p> <p>VI. Unless otherwise provided, a person is not an accomplice in an offense committed by another person if:</p> <p>(a) He is the victim of that offense; or</p> <p>(b) The offense is so defined that his conduct is inevitably incident to its commission; or</p> <p>(c) He terminates his complicity prior to the commission of the offense and wholly deprives it of effectiveness in the commission of the offense or gives timely warning to the law enforcement authorities or otherwise makes proper effort to prevent the commission of the offense.</p>	

State	Summary	Relevant statutes	Notes and/or notable case law (if found)
<p><b>New Hampshire</b></p>		<p>VII. An accomplice may be convicted on proof of the commission of the offense and of his complicity therein, though the person claimed to have committed the offense has not been prosecuted or convicted or has been convicted of a different offense or degree of offense or has an immunity to prosecution or conviction or has been acquitted.</p> <p>No affirmative defense per se, but some exemptions present in section 626.8, subd. VI</p> <p>N.H. Rev. Stat. § 630:1-a First Degree Murder.  III. A person convicted of a murder in the first degree shall be sentenced to life imprisonment and shall not be eligible for parole at any time.</p> <p>N.H. Rev. Stat. § 630:1-b Second Degree Murder.  II. Murder in the second degree shall be punishable by imprisonment for life or for such term as the court may order.</p>	

State	Summary	Relevant statutes	Notes and/or notable case law (if found)
<p><b>New Jersey</b></p>	<p>Felony murder for enumerated felonies. Statute provides for an affirmative defense.</p> <p>No primary limits to aiding and abetting felony murder liability.</p> <p>Secondary limits: Person who died must not be participant in predicate felony. Affirmative defense. Predicate felony must be part of a statutorily enumerated list for maximum liability to attach.</p>	<p>N.J. Stat. § 2C:11-3. Murder  a. Except as provided in N.J.S.2C:11-4, criminal homicide constitutes murder when:  (3) It is committed when the actor, acting either alone or with one or more other persons, is engaged in the commission of, or an attempt to commit, or flight after committing or attempting to commit robbery, sexual assault, arson, burglary, kidnapping, carjacking, criminal escape or terrorism pursuant to section 2 of P.L.2002, c. 26 (C.2C:38-2), and in the course of such crime or of immediate flight therefrom, any person causes the death of a person other than one of the participants; except that in any prosecution under this subsection, in which the defendant was not the only participant in the underlying crime, it is an affirmative defense that the defendant:  (a) Did not commit the homicidal act or in any way solicit, request, command, importune, cause or aid the commission thereof; and  (b) Was not armed with a deadly weapon, or any instrument, article or substance readily capable of causing death or serious physical injury and of a sort not ordinarily carried in public places by law-abiding persons; and  (c) Had no reasonable ground to believe that any other participant was armed with such a weapon, instrument, article or substance; and  (d) Had no reasonable ground to believe that any other participant intended to engage in conduct likely to result in death or serious physical injury.</p> <p>N.J. Stat. § 2C:11-3. Murder  a. Except as provided in N.J.S.2C:11-4, criminal homicide constitutes murder when:  (3) . . . it is an affirmative defense that the defendant:  (a) Did not commit the homicidal act or in any way solicit, request, command, importune, cause or aid the commission thereof; and</p>	

State	Summary	Relevant statutes	Notes and/or notable case law (if found)
New Jersey		<p>(b) Was not armed with a deadly weapon, or any instrument, article or substance readily capable of causing death or serious physical injury and of a sort not ordinarily carried in public places by law-abiding persons; and</p> <p>(c) Had no reasonable ground to believe that any other participant was armed with such a weapon, instrument, article or substance; and</p> <p>(d) Had no reasonable ground to believe that any other participant intended to engage in conduct likely to result in death or serious physical injury.</p> <p>N.J. Stat. § 2C:11-3. Murder</p> <p>b. (1) Murder is a crime of the first degree but a person convicted of murder shall be sentenced, except as provided in paragraphs (2), (3) and (4) of this subsection, by the court to a term of 30 years, during which the person shall not be eligible for parole, or be sentenced to a specific term of years which shall be between 30 years and life imprisonment of which the person shall serve 30 years before being eligible for parole.</p> <p>(2) If the victim was a law enforcement officer and was murdered while performing his official duties or was murdered because of his status as a law enforcement officer, the person convicted of that murder shall be sentenced by the court to a term of life imprisonment, during which the person shall not be eligible for parole.</p> <p>(3) A person convicted of murder shall be sentenced to a term of life imprisonment without eligibility for parole if the murder was committed under all of the following circumstances:</p> <p>(a) The victim is less than 18 years old; and</p> <p>(b) The act is committed in the course of the commission, whether alone or with one or more persons, of a violation of N.J.S.2C:14-2 or N.J.S.2C:14-3.</p>	

State	Summary	Relevant statutes	Notes and/or notable case law (if found)
<p><b>New Mexico</b></p>	<p>State supreme court abolished felony murder; no secondary limits apply.</p>	<p>N. M. S. A. 1978, § 30-2-1. Murder  A. Murder in the first degree is the killing of one human being by another without lawful justification or excuse, by any of the means with which death may be caused: (2) in the commission of or attempt to commit any felony; or  Whoever commits murder in the first degree is guilty of a capital felony.</p> <p>N. M. S. A. 1978, § 30-1-13. Accessory  A person may be charged with and convicted of the crime as an accessory if he procures, counsels, aids or abets in its commission and although he did not directly commit the crime and although the principal who directly committed such crime has not been prosecuted or convicted, or has been convicted of a different crime or degree of crime, or has been acquitted, or is a child under the Children's Code.</p> <p>N. M. S. A. 1978, § 31-18-14. Sentencing authority; capital felonies  When a defendant has been convicted of a capital felony, the defendant shall be sentenced to life imprisonment or life imprisonment without possibility of release or parole.</p>	<p>For felony murder doctrine to apply, state must prove the elements of second degree murder as well as an independent felony; this requirement avoids the risk that a person committing a negligent or accidental killing will be convicted of felony murder, because a negligent or accidental killing does not constitute second degree murder.  NMSA 1978, § 30-2-1, subd. A(2).  State v. Varela, 1999, 128 N.M. 454, 993 P.2d 1280, appeal from denial of habeas corpus 291 Fed.Appx. 900, 2008 WL 4068436.</p> <p>Felony-murder statute serves to elevate second-degree murder to first degree when the murder occurs during the commission of a dangerous felony.  Campos v. Bravo, 2007, 141 N.M. 801, 161 P.3d 846, rehearing denied.</p>

State	Summary	Relevant statutes	Notes and/or notable case law (if found)
<p><b>New York</b></p>	<p>Felony murder for enumerated felonies, classified as second degree murder. Statute provides for an affirmative defense. First degree felony murder exist, but intent to kill is required (i.e. not a strict liability crime).</p> <p>No primary limits to aiding and abetting felony murder liability.</p> <p>Secondary limits: Person who died must not be participant in predicate felony. Affirmative defense. Mental state or act requirement before maximum liability attaches.</p>	<p>McKinney's Penal Law § 125.25 Murder in the second degree</p> <p>A person is guilty of murder in the second degree when:</p> <p>3. Acting either alone or with one or more other persons, he commits or attempts to commit robbery, burglary, kidnapping, arson, rape in the first degree, criminal sexual act in the first degree, sexual abuse in the first degree, aggravated sexual abuse, escape in the first degree, or escape in the second degree, and, in the course of and in furtherance of such crime or of immediate flight therefrom, he, or another participant, if there be any, causes the death of a person other than one of the participants;</p> <p>except that in any prosecution under this subdivision, in which the defendant was not the only participant in the underlying crime, it is an affirmative defense that the defendant:</p> <p>(a) Did not commit the homicidal act or in any way solicit, request, command, importune, cause or aid the commission thereof; and</p> <p>(b) Was not armed with a deadly weapon, or any instrument, article or substance readily capable of causing death or serious physical injury and of a sort not ordinarily carried in public places by law-abiding persons; and</p> <p>(c) Had no reasonable ground to believe that any other participant was armed with such a weapon, instrument, article or substance; and</p> <p>(d) Had no reasonable ground to believe that any other participant intended to engage in conduct likely to result in death or serious physical injury;</p> <p>Murder in the second degree is a class A-I felony</p> <p>McKinney's Penal Law § 125.27. Murder in the First Degree.</p> <p>A person is guilty of murder in the first degree when:</p> <p>1. With intent to cause the death of another person, he causes the death of such person or of a third person; and</p> <p>(a) Either:</p>	<p>Since one who intended to commit “felony murder” would actually commit an intention homicide, one cannot attempt felony murder. <i>People v. William M. T.</i>, 1975, 82 Misc.2d 308, 369 N.Y.S.2d 333.</p> <p>Death must be of person other than participant</p>

State	Summary	Relevant statutes	Notes and/or notable case law (if found)
New York		<p>(vii) the victim was killed while the defendant was in the course of committing or attempting to commit and in furtherance of robbery, burglary in the first degree or second degree, kidnapping in the first degree, arson in the first degree or second degree, rape in the first degree, criminal sexual act in the first degree, sexual abuse in the first degree, aggravated sexual abuse in the first degree or escape in the first degree, or in the course of and furtherance of immediate flight after committing or attempting to commit any such crime or in the course of and furtherance of immediate flight after attempting to commit the crime of murder in the second degree; provided however, the victim is not a participant in one of the aforementioned crimes and, provided further that, unless the defendant's criminal liability under this subparagraph is based upon the defendant having commanded another person to cause the death of the victim or intended victim pursuant to section 20.00 of this chapter, this subparagraph shall not apply where the defendant's criminal liability is based upon the conduct of another pursuant to section 20.00 of this chapter;</p> <p>McKinney's Penal Law § 20.00 Criminal liability for conduct of another. When one person engages in conduct which constitutes an offense, another person is criminally liable for such conduct when, acting with the mental culpability required for the commission thereof, he solicits, requests, commands, importunes, or intentionally aids such person to engage in such conduct. § 20.00 Criminal liability for conduct of another. When one person engages in conduct which constitutes an offense, another person is criminally liable for such conduct when, acting with the mental culpability required for the commission thereof, he solicits, requests, commands, importunes, or intentionally aids such person to engage in such conduct. § 125.25 Murder in the second degree</p>	

State	Summary	Relevant statutes	Notes and/or notable case law (if found)
New York		<p>A person is guilty of murder in the second degree when:</p> <p>3. . . .</p> <p>except that in any prosecution under this subdivision, in which the defendant was not the only participant in the underlying crime, it is an affirmative defense that the defendant:</p> <p>(a) Did not commit the homicidal act or in any way solicit, request, command, importune, cause or aid the commission thereof; and</p> <p>(b) Was not armed with a deadly weapon, or any instrument, article or substance readily capable of causing death or serious physical injury and of a sort not ordinarily carried in public places by law-abiding persons; and</p> <p>(c) Had no reasonable ground to believe that any other participant was armed with such a weapon, instrument, article or substance; and</p> <p>(d) Had no reasonable ground to believe that any other participant intended to engage in conduct likely to result in death or serious physical injury</p> <p>McKinney's Penal Law § 70.00 Sentence of imprisonment for felony.</p> <p>2. Maximum term of sentence. The maximum term of an indeterminate sentence shall be at least three years and the term shall be fixed as follows:</p> <p>(a) For a class A felony, the term shall be life imprisonment;</p> <p>3. Minimum period of imprisonment. The minimum period of imprisonment under an indeterminate sentence shall be at least one year and shall be fixed as follows:</p> <p>(a) In the case of a class A felony, the minimum period shall be fixed by the court and specified in the sentence.</p>	

State	Summary	Relevant statutes	Notes and/or notable case law (if found)
New York		<p>(i) For a class A-I felony, such minimum period shall not be less than fifteen years nor more than twenty-five years; provided, however, that (A) where a sentence, other than a sentence of death or life imprisonment without parole, is imposed upon a defendant convicted of murder in the first degree as defined in section 125.27 of this chapter such minimum period shall be not less than twenty years nor more than twenty-five years, and, (B) where a sentence is imposed upon a defendant convicted of murder in the second degree as defined in subdivision five of section 125.25 of this chapter or convicted of aggravated murder as defined in section 125.26 of this chapter, the sentence shall be life imprisonment without parole, and, (C) where a sentence is imposed upon a defendant convicted of attempted murder in the first degree as defined in article one hundred ten of this chapter and subparagraph (i), (ii) or (iii) of paragraph (a) of subdivision one and paragraph (b) of subdivision one of section 125.27 of this chapter or attempted aggravated murder as defined in article one hundred ten of this chapter and section 125.26 of this chapter such minimum period shall be not less than twenty years nor more than forty years.</p>	

State	Summary	Relevant statutes	Notes and/or notable case law (if found)
<b>North Carolina</b>	<p>Felony murder for enumerated felonies. Classified as first degree murder.</p> <p>No primary limits to aiding and abetting felony murder liability.</p> <p>Secondary limit: Predicate felony must be part of a statutorily enumerated list for maximum liability to attach.</p>	<p>N.C.G.S.A. § 14-17 Murder in the first and second degree defined; punishment (a) A murder which shall be perpetrated by means of a nuclear, biological, or chemical weapon of mass destruction as defined in G.S. 14-288.21, poison, lying in wait, imprisonment, starving, torture, or by any other kind of willful, deliberate, and premeditated killing, or which shall be committed in the perpetration or attempted perpetration of any arson, rape or a sex offense, robbery, kidnapping, burglary, or other felony committed or attempted with the use of a deadly weapon shall be deemed to be murder in the first degree, a Class A felony, and any person who commits such murder shall be punished with death or imprisonment in the State's prison for life without parole as the court shall determine pursuant to G.S. 15A-2000, except that any such person who was under 18 years of age at the time of the murder shall be punished in accordance with Part 2A of Article 81B of Chapter 15A of the General Statutes.</p> <p>N.C.G.S.A. § 14-5.2. Accessory before fact punishable as principal felon All distinctions between accessories before the fact and principals to the commission of a felony are abolished. Every person who heretofore would have been guilty as an accessory before the fact to any felony shall be guilty and punishable as a principal to that felony. However, if a person who heretofore would have been guilty and punishable as an accessory before the fact is convicted of a capital felony, and the jury finds that his conviction was based solely on the uncorroborated testimony of one or more principals, coconspirators, or accessories to the crime, he shall be guilty of a Class B2 felony.</p> <p>N.C.G.S.A. § 14-17 Murder in the first and second degree defined; punishment (a)...and any person who commits such murder shall be punished with death or imprisonment in the State's prison for life without parole as the court shall determine pursuant to G.S. 15A-2000, except that any such person who was under 18 years of age at the time of the murder shall be punished in accordance with Part 2A of Article 81B of Chapter 15A of the General Statutes.</p>	

State	Summary	Relevant statutes	Notes and/or notable case law (if found)
<p><b>North Dakota</b></p>	<p>Felony murder for enumerated felonies. Statute provides for an affirmative defense. There is also an exception when the murder is committed under extreme emotional disturbance. This exception bumps the felony from Class AA to class A.</p> <p>No primary limits to aiding and abetting felony murder liability.</p> <p>Secondary limits: Affirmative defense. Predicate felony must be part of a statutorily enumerated list for maximum liability to attach.</p>	<p>NDCC § 12.1-16-01</p> <p>1. A person is guilty of murder, a class AA felony, if the person:</p> <p>c. Acting either alone or with one or more other persons, commits or attempts to commit treason, robbery, burglary, kidnapping, felonious restraint, arson, gross sexual imposition, a felony offense against a child under section 12.1-20-03, 12.1-27.2-02, 12.1-27.2-03, 12.1-27.2-04, or 14-09-22, or escape and, in the course of and in furtherance of such crime or of immediate flight therefrom, the person or any other participant in the crime causes the death of any person.</p> <p>In any prosecution under this subsection in which the defendant was not the only participant in the underlying crime, it is an affirmative defense that the defendant:</p> <p>(1) Did not commit the homicidal act or in any way solicit, command, induce, procure, counsel, or aid the commission thereof;</p> <p>(2) Was not armed with a firearm, destructive device, dangerous weapon, or other weapon which under the circumstances indicated a readiness to inflict serious bodily injury;</p> <p>(3) Reasonably believed that no other participant was armed with such a weapon; and</p> <p>(4) Reasonably believed that no other participant intended to engage in conduct likely to result in death or serious bodily injury.</p> <p>Subdivisions a and b. are inapplicable in the circumstances covered by subsection 2.</p> <p>2. A person is guilty of murder, a class A felony, if the person causes the death of another human being under circumstances which would be class AA felony murder, except that the person causes the death under the influence of extreme emotional disturbance for which there is reasonable excuse. The reasonableness of the excuse must be determined from the viewpoint of a person in that person's situation under the circumstances as that person believes them to be. An extreme emotional disturbance is excusable, within the</p>	

State	Summary	Relevant statutes	Notes and/or notable case law (if found)
North Dakota		<p>NDCC § 12.1-16-01</p> <p>1. A person is guilty of murder, a class AA felony, if the person.***</p> <p>In any prosecution under this subsection in which the defendant was not the only participant in the underlying crime, it is an affirmative defense that the defendant:</p> <p>(1) Did not commit the homicidal act or in any way solicit, command, induce, procure, counsel, or aid the commission thereof;</p> <p>(2) Was not armed with a firearm, destructive device, dangerous weapon, or other weapon which under the circumstances indicated a readiness to inflict serious bodily injury;</p> <p>(3) Reasonably believed that no other participant was armed with such a weapon; and</p> <p>(4) Reasonably believed that no other participant intended to engage in conduct likely to result in death or serious bodily injury.</p> <p>NDCC . § 12.1-32-01. Classification of offenses-- Penalties</p> <p>1. Class AA felony, for which a maximum penalty of life imprisonment without parole may be imposed. The court must designate whether the life imprisonment sentence imposed is with or without an opportunity for parole. Notwithstanding the provisions of section 12-59-05, a person found guilty of a class AA felony and who receives a sentence of life imprisonment with parole, shall not be eligible to have that person's sentence considered by the parole board for thirty years, less sentence reduction earned for good conduct, after that person's admission to the penitentiary.</p> <p>2. Class A felony, for which a maximum penalty of twenty years' imprisonment, a fine of twenty thousand dollars, or both, may be imposed.</p>	

State	Summary	Relevant statutes	Notes and/or notable case law (if found)
Ohio	<p>Full felony murder. For violent offenses (or those specifically listed) it is classified as either aggravated or first degree murder. For all other felonies it is involuntary manslaughter.</p> <p>No primary limits to aiding and abetting felony murder liability.</p> <p>Secondary limits: Predicate felony must be part of a statutorily enumerated list for maximum liability to attach. Mental state or act requirement before maximum liability attaches.</p>	<p>R.C. § 2903.01 Aggravated murder (B) No person shall purposely cause the death of another or the unlawful termination of another's pregnancy while committing or attempting to commit, or while fleeing immediately after committing or attempting to commit, kidnapping, rape, aggravated arson, arson, aggravated robbery, robbery, aggravated burglary, burglary, trespass in a habitation when a person is present or likely to be present, terrorism, or escape.</p> <p>R.C. § 2903.02 Murder (B) No person shall cause the death of another as a proximate result of the offender's committing or attempting to commit an offense of violence that is a felony of the first or second degree and that is not a violation of section 2903.03 or 2903.04 of the Revised Code.</p> <p>R.C. §2903.04 Involuntary manslaughter (A) No person shall cause the death of another or the unlawful termination of another's pregnancy as a proximate result of the offender's committing or attempting to commit a felony. (C) Whoever violates this section is guilty of involuntary manslaughter. Violation of division (A) of this section is a felony of the first degree. Violation of division (B) of this section is a felony of the third degree. R.C. § 2903.03 Conspiracy, Attempt and Complicity (A) No person, acting with the kind of culpability required for the commission of an offense, shall do any of the following: (1) Solicit or procure another to commit the offense; (2) Aid or abet another in committing the offense; (3) Conspire with another to commit the offense in violation of section 2923.01 of the Revised Code; (4) Cause an innocent or irresponsible person to commit the offense. (B) It is no defense to a charge under this section that no person with whom the accused was in complicity has been convicted as a principal offender.</p>	<p>Attempted felony murder was not cognizable offense in Ohio. <i>State v. Nolan</i> (Ohio App. 11 Dist., 06-28-2013) 995 N.E.2d 902, 2013-Ohio-2829.</p>

State	Summary	Relevant statutes	Notes and/or notable case law (if found)
Ohio		<p>(C) No person shall be convicted of complicity under this section unless an offense is actually committed, but a person may be convicted of complicity in an attempt to commit an offense in violation of section 2923.02 of the Revised Code.</p> <p>(D) If an alleged accomplice of the defendant testifies against the defendant in a case in which the defendant is charged with complicity in the commission of or an attempt to commit an offense, an attempt to commit an offense, or an offense, the court, when it charges the jury, shall state substantially the following:  "The testimony of an accomplice does not become inadmissible because of his complicity, moral turpitude, or self-interest, but the admitted or claimed complicity of a witness may affect his credibility and make his testimony subject to grave suspicion, and require that it be weighed with great caution.  It is for you, as jurors, in the light of all the facts presented to you from the witness stand, to evaluate such testimony and to determine its quality and worth or its lack of quality and worth."</p> <p>(E) It is an affirmative defense to a charge under this section that, prior to the commission of or attempt to commit the offense, the actor terminated his complicity, under circumstances manifesting a complete and voluntary renunciation of his criminal purpose.</p> <p>(F) Whoever violates this section is guilty of complicity in the commission of an offense, and shall be prosecuted and punished as if he were a principal offender. A charge of complicity may be stated in terms of this section, or in terms of the principal offense.</p> <p>R.C. § 2929.02 Penalties for Murder  (A) Whoever is convicted of or pleads guilty to aggravated murder in violation of section 2903.01 of the Revised Code shall suffer death or be imprisoned for life, as determined pursuant to sections 2929.022, 2929.03, and 2929.04 of the Revised Code, except that no person who is not found to have been eighteen years of age or older at the time of the commission of the offense shall be imprisoned for life without parole...</p>	

State	Summary	Relevant statutes	Notes and/or notable case law (if found)
Ohio		(B)(1) Except as otherwise provided in division (B)(2) or (3) of this section, whoever is convicted of or pleads guilty to murder in violation of section 2903.02 of the Revised Code shall be imprisoned for an indefinite term of fifteen years to life.	

State	Summary	Relevant statutes	Notes and/or notable case law (if found)
<b>Oklahoma</b>	<p>Felony murder classified as first degree for listed felonies; second degree murder for all other felonies.</p> <p>No primary limits to aiding and abetting felony murder liability.</p> <p>Secondary limit: Predicate felony must be part of a statutorily enumerated list for maximum liability to attach.</p>	<p>21 Okl.St. Ann. § 701.7. Murder in the first degree  B. A person also commits the crime of murder in the first degree, regardless of malice, when that person or any other person takes the life of a human being during, or if the death of a human being results from, the commission or attempted commission of murder of another person, shooting or discharge of a firearm or crossbow with intent to kill, intentional discharge of a firearm or other deadly weapon into any dwelling or building as provided in Section 1289.17A of this title, forcible rape, robbery with a dangerous weapon, kidnapping, escape from lawful custody, eluding an officer, first degree burglary, first degree arson, unlawful distributing or dispensing of controlled dangerous substances or synthetic controlled substances, trafficking in illegal drugs, or manufacturing or attempting to manufacture a controlled dangerous substance.</p> <p>21 Okl.St. Ann. § 701.8. Murder in the second degree  Homicide is murder in the second degree in the following cases:  2. When perpetrated by a person engaged in the commission of any felony other than the unlawful acts set out in Section 1, subsection B, of this act (§701.7).</p> <p>21 Okl.St. Ann. § 171. Classification of Parties.  The parties to crimes are classified as:  1. Principals, and,  2. Accessories.</p> <p>21 Okl.St. Ann. § 172. Principals defined.  All persons concerned in the commission of crime, whether it be felony or misdemeanor, and whether they directly commit the act constituting the offense, or aid and abet in its commission, though not present, are principals.</p>	<p>Defendant could not be charged with felony-murder of co-felon who was shot by property owner during burglary; felony-murder doctrine did not apply to cases in which victim was killed by someone other than defendant or accomplice. State v. Jones, Okla.Crim.App., 859 P.2d 514 (1993)</p>

State	Summary	Relevant statutes	Notes and/or notable case law (if found)
Oklahoma		<p>21 Okl.St. Ann. § 172. Accessories defined. All persons who, after the commission of any felony, conceal or aid the offender, with knowledge that he has committed a felony, and with intent that he may avoid or escape from arrest, trial, conviction, or punishment, are accessories.</p> <p>21 Okl.St. Ann. § 701.9. Punishment for Murder A. A person who is convicted of or pleads guilty or nolo contendere to murder in the first degree shall be punished by death, by imprisonment for life without parole or by imprisonment for life. A person who is convicted of or pleads guilty or nolo contendere to murder in the first degree, as described in subsection E of Section 701.7 of this title, shall be punished by death or by life without parole and absent an overwhelming amount of mitigating evidence shall not be entitled to or afforded the benefit of receiving imprisonment for life or deferment of the sentence. B. A person who is convicted of or pleads guilty or nolo contendere to murder in the second degree shall be guilty of a felony punishable by imprisonment in the custody of the Department of Corrections for not less than ten (10) years nor more than life.</p>	

State	Summary	Relevant statutes	Notes and/or notable case law (if found)
Oregon	<p>Felony murder for enumerated felonies. Classified as second degree murder. Statute provides for an affirmative defense.</p> <p>No primary limits to aiding and abetting felony murder liability.</p> <p>Secondary limit: Person who died must not be participant in predicate felony. Affirmative defense. Predicate felony must be part of a statutorily enumerated list for maximum liability to attach.</p>	<p>ORS Sec 163.115. Murder; affirmative defenses; sentence</p> <p>(1) Except as provided in ORS 163.095, 163.118 and 163.125, criminal homicide constitutes murder in the second degree:</p> <p>(b) When it is committed by a person, acting either alone or with one or more persons, who commits or attempts to commit any of the following crimes and in the course of and in furtherance of the crime the person is committing or attempting to commit, or during the immediate flight therefrom, the person, or another participant if there be any, causes the death of a person other than one of the participants:</p> <p>(A) Arson in the first degree as defined in ORS 164.325;</p> <p>(B) Criminal mischief in the first degree by means of an explosive as defined in ORS 164.365;</p> <p>(C) Burglary in the first degree as defined in ORS 164.225;</p> <p>(D) Escape in the first degree as defined in ORS 162.165;</p> <p>(E) Kidnapping in the second degree as defined in ORS 163.225;</p> <p>(F) Kidnapping in the first degree as defined in ORS 163.235;</p> <p>(G) Robbery in the first degree as defined in ORS 164.415;</p> <p>(H) Any felony sexual offense in the first degree defined in this chapter;</p> <p>(I) Compelling prostitution as defined in ORS 167.017; or</p> <p>(J) Assault in the first degree, as defined in ORS 163.185, and the victim is under 14 years of age, or assault in the second degree, as defined in ORS 163.175 (1)(a) or (b), and the victim is under 14 years of age; or</p> <p>(3) It is an affirmative defense to a charge of violating subsection (1)(b) of this section that the defendant:</p> <p>(a) Was not the only participant in the underlying crime;</p> <p>(b) Did not commit the homicidal act or in any way solicit, request, command, importune, cause or aid in the commission thereof;</p>	<p>A defendant may commit felony murder even though the defendant did not complete the underlying felony; that is, the felony murder statute will apply if the defendant only attempted to commit a predicate felony. <i>Martinez v. Cain</i> (2020) 458 P.3d 670, 366 Or. 136.</p>

State	Summary	Relevant statutes	Notes and/or notable case law (if found)
Oregon		<p>(c) Was not armed with a dangerous or deadly weapon;  (d) Had no reasonable ground to believe that any other participant was armed with a dangerous or deadly weapon; and  (e) Had no reasonable ground to believe that any other participant intended to engage in conduct likely to result in death.</p> <p>ORS Sec 163.115. Murder; affirmative defenses; sentence  (1) Except as provided in ORS 163.095, 163.118 and 163.125, criminal homicide constitutes murder in the second degree:  (b) When it is committed by a person, acting either alone or with one or more persons, who commits or attempts to commit any of the following crimes and in the course of and in furtherance of the crime the person is committing or attempting to commit, or during the immediate flight therefrom, the person, or another participant if there be any, causes the death of a person other than one of the participants:  (3) It is an affirmative defense to a charge of violating subsection (1)(b) of this section that the defendant:  (a) Was not the only participant in the underlying crime;  (b) Did not commit the homicidal act or in any way solicit, request, command, importune, cause or aid in the commission thereof;  (c) Was not armed with a dangerous or deadly weapon;  (d) Had no reasonable ground to believe that any other participant was armed with a dangerous or deadly weapon; and  (e) Had no reasonable ground to believe that any other participant intended to engage in conduct likely to result in death.</p> <p>ORS Sec 163.115. Murder; affirmative defenses; sentence  (5) Except as otherwise provided in ORS 144.397 and 163.155: (a) A person convicted of murder in the second degree, who was at least 15 years of age at the time of committing the murder, shall be punished by imprisonment for life.</p>	

State	Summary	Relevant statutes	Notes and/or notable case law (if found)
<p><b>Pennsylvania</b></p>	<p>Felony murder is classified as second degree murder. The statute just says "felony" but defines it later on to include specific crimes.</p> <p>No primary limits to aiding and abetting felony murder liability.</p> <p>Secondary limit: Person causing death must be defendant or an associate of the defendant. Abandonment defense (applies to all aiding/abetting). Predicate felony must be part of a statutorily enumerated list for maximum liability to attach.</p>	<p>18 Pa.C.S.A. § 2502. Murder</p> <p>(b) Murder of the second degree.--A criminal homicide constitutes murder of the second degree when it is committed while defendant was engaged as a principal or an accomplice in the perpetration of a felony.</p> <p>(d) Definitions.--As used in this section the following words and phrases shall have the meanings given to them in this subsection:</p> <p>"Perpetration of a felony." The act of the defendant in engaging in or being an accomplice in the commission of, or an attempt to commit, or flight after committing, or attempting to commit robbery, rape, or deviate sexual intercourse by force or threat of force, arson, burglary or kidnapping. 306. Liability for conduct of another; complicity.</p> <p>(a) General rule.--A person is guilty of an offense if it is committed by his own conduct or by the conduct of another person for which he is legally accountable, or both.</p> <p>(b) Conduct of another.--A person is legally accountable for the conduct of another person when:</p> <p>(1) acting with the kind of culpability that is sufficient for the commission of the offense, he causes an innocent or irresponsible person to engage in such conduct;</p> <p>(2) he is made accountable for the conduct of such other person by this title or by the law defining the offense; or</p> <p>(3) he is an accomplice of such other person in the commission of the offense.</p> <p>(c) Accomplice defined.--A person is an accomplice of another person in the commission of an offense if:</p> <p>(1) with the intent of promoting or facilitating the commission of the offense, he:</p> <p>(i) solicits such other person to commit it; or</p> <p>(ii) aids or agrees or attempts to aid such other person in planning or committing it; or</p> <p>(2) his conduct is expressly declared by law to establish his complicity.</p>	<p>To the extent that felony murder does not require the commission, i.e., completion, of the predicate offense, an acquittal of the predicate offense will not always mean that the homicide did not occur in the "perpetration of a felony" within the meaning of the felony-murder statute; that is, the homicide could have occurred during the course of, or after, an unsuccessful attempt to commit the predicate offense. Com. v. Austin, 906 A.2d 1213, Super.2006, appeal denied 920 A.2d 830, 591 Pa. 721</p>

State	Summary	Relevant statutes	Notes and/or notable case law (if found)
Pennsylvania		<p>(d) Culpability of accomplice.--When causing a particular result is an element of an offense, an accomplice in the conduct causing such result is an accomplice in the commission of that offense, if he acts with the kind of culpability, if any, with respect to that result that is sufficient for the commission of the offense.</p> <p>(e) Status of actor.--In any prosecution for an offense in which criminal liability of the defendant is based upon the conduct of another person pursuant to this section, it is no defense that the offense in question, as defined, can be committed only by a particular class or classes of persons, and the defendant, not belonging to such class or classes, is for that reason legally incapable of committing the offense in an individual capacity.</p> <p>(f) Exceptions.--Unless otherwise provided by this title or by the law defining the offense, a person is not an accomplice in an offense committed by another person if:</p> <ol style="list-style-type: none"> <li>(1) he is a victim of that offense;</li> <li>(2) the offense is so defined that his conduct is inevitably incident to its commission; or</li> <li>(3) he terminates his complicity prior to the commission of the offense and: <ol style="list-style-type: none"> <li>(i) wholly deprives it of effectiveness in the commission of the offense; or</li> <li>(ii) gives timely warning to the law enforcement authorities or otherwise makes proper effort to prevent the commission of the offense.</li> </ol> </li> </ol> <p>(g) Prosecution of accomplice only.--An accomplice may be convicted on proof of the commission of the offense and of his complicity therein, though the person claimed to have committed the offense has not been prosecuted or convicted or has been convicted of a different offense or degree of offense or has an immunity to prosecution or conviction or has been acquitted.</p> <p>18 Pa.C.S.A. § § 1102. Sentence for murder, murder of unborn child and murder of law enforcement officer</p> <p>(b) Second degree.--Except as provided under section 1102.1, a person who has been convicted of murder of the second degree, of second degree murder of an unborn child or of second degree murder of a law enforcement officer shall be sentenced to a term of life imprisonment.</p>	

State	Summary	Relevant statutes	Notes and/or notable case law (if found)
<p><b>Rhode Island</b></p>	<p>Felony murder is classified as first degree murder for the listed felonies. Based on case, felony murder is second degree if the felony is otherwise unlisted but still inherently dangerous.</p> <p>No primary limits to aiding and abetting felony murder liability.</p> <p>Secondary limit: Predicate felony must be part of a statutorily enumerated list for maximum liability to attach.</p>	<p>RI Gen L § 11-23-1. Murder The unlawful killing of a human being with malice aforethought is murder. Every murder perpetrated by poison, lying in wait, or any other kind of willful, deliberate, malicious, and premeditated killing, or committed in the perpetration of, or attempt to perpetrate, any arson or any violation of § 11-4-2, 11-4-3, or 11-4-4, rape, any degree of sexual assault or child molestation, burglary or breaking and entering, robbery, kidnapping, or committed during the course of the perpetration, or attempted perpetration, of felony manufacture, sale, delivery, or other distribution of a controlled substance otherwise prohibited by the provisions of chapter 28 of title 21, or committed against any law enforcement officer in the performance of his or her duty or committed against an assistant attorney general or special assistant attorney general in the performance of his or her duty, or perpetrated from a premeditated design unlawfully and maliciously to effect the death of any human being other than him or her who is killed, is murder in the first degree. Any other murder is murder in the second degree. The degree of murder may be charged in the indictment or information, and the jury may find the degree of murder, whether the murder is charged in the indictment or information or not, or may find the defendant guilty of a lesser offense than that charged in the indictment or information, in accordance with the provisions of § 12-17-14.</p> <p>RI Gen L § 11-1-3 Liability for aiding, abetting, counseling, hiring, or commanding offenses. – Every person who shall aid, assist, abet, counsel, hire, command, or procure another to commit any crime or offense, shall be proceeded against as principal or as an accessory before the fact, according to the nature of the offense committed, and upon conviction shall suffer the like punishment as the principal offender is subject to by this title.</p> <p>RI Gen. L, § 11-23-2.2. Penalty for murder in the first degree Every person guilty of murder in the first degree shall serve not less than fifteen (15) years of his or her sentence before being eligible for parole.</p>	<p>In determining whether felony is inherently dangerous to life and thus capable of serving as predicate to charge of second-degree felony murder, trier of fact considers facts and circumstances of particular case to determine if underlying felony was inherently dangerous in manner and circumstances in which it was committed, rather than making determination by viewing elements of felony in abstract. <i>State v. Stewart</i>, 663 A.2d 912 (1995).</p> <p>Homicide committed in the course of a felony, other than a felony enumerated in statute pertaining to first-degree murder, constitutes murder in the second degree if such felony is an inherently dangerous felony. In re <i>Leon</i>, 122 R.I. 548, 410 A.2d 121 (1980). -- Fact that victim was accomplice to felony does not prevent defendant from being convicted of felony-murder if his act foreseeably produced the fatal injury. In re <i>Leon</i>, 122 R.I. 548, 410 A.2d 121 (1980).</p>

State	Summary	Relevant statutes	Notes and/or notable case law (if found)
Rhode Island		<p>RI Gen. L, § 11-23-2. Penalty for murder  Every person guilty of murder in the first degree shall be imprisoned for life. Every person guilty of murder in the first degree: (1) committed intentionally while engaged in the commission of another capital offense or other felony for which life imprisonment may be imposed; ... or (7) committed during the course of the perpetration or attempted perpetration of felony manufacture, sale, delivery or other distribution of a controlled substance otherwise prohibited by the provisions of chapter 28 of title 21; shall be imprisoned for life and if ordered by the court pursuant to chapter 19.2 of title 12 that person shall not be eligible for parole from imprisonment.  Every person guilty of murder in the second degree shall be imprisoned for not less than ten (10) years and may be imprisoned for life.</p>	

State	Summary	Relevant statutes	Notes and/or notable case law (if found)
<p><b>South Carolina</b></p>	<p>South Carolina adheres to the common law rule of murder and makes no distinction between murder and felony murder. Whether the murder occurred during the commission of a felony (certain are listed) is taken into account during the sentencing. Whether it was perpetrator by someone other than the defendant is also considered.</p> <p>No primary limits to aiding and abetting felony murder liability.</p> <p>Secondary limit: Predicate felony must be part of a statutorily enumerated list for maximum liability to attach.</p>	<p>SC ST § 16-3-10. "Murder" defined.  "Murder" is the killing of any person with malice aforethought, either express or implied.  SC Code § 16-1-40 Accessory.  A person who aids in the commission of a felony or is an accessory before the fact in the commission of a felony by counseling, hiring, or otherwise procuring the felony to be committed is guilty of a felony and, upon conviction, must be punished in the manner prescribed for the punishment of the principal felon. SC ST § 16-3-20.  Punishment for murder; separate sentencing proceeding when death penalty sought.  (A) A person who is convicted of or pleads guilty to murder must be punished by death, or by a mandatory minimum term of imprisonment for thirty years to life.  (C) The judge shall consider, or he shall include in his instructions to the jury for it to consider, mitigating circumstances otherwise authorized or allowed by law and the following statutory aggravating and mitigating circumstances which may be supported by the evidence:  (a) Statutory aggravating circumstances:  (1) The murder was committed while in the commission of the following crimes or acts:  (a) criminal sexual conduct in any degree;  (b) kidnapping;  (c) trafficking in persons;  (d) burglary in any degree;  (e) robbery while armed with a deadly weapon;  (f) larceny with use of a deadly weapon;  (g) killing by poison;  (h) drug trafficking as defined in Section 44-53-370(e), 44-53-375(B), 44-53-440, or 44-53-445;  (i) physical torture;  (j) dismemberment of a person; or  (k) arson in the first degree as defined in Section 16-11-110(A).  (b) Mitigating circumstances:  (4) The defendant was an accomplice in the murder committed by another person and his participation was relatively minor.  (5) The defendant acted under duress or under the domination of another person.</p>	<p>Since South Carolina adheres to the common law rule of murder, and makes no distinction between murder and felony murder, the aggravating circumstance of murder in a death penalty case, pursuant to § 16-3-20(C)(a)(1)(e), remains as such regardless of whether the crime charged is murder or felony murder.  State v. Yates (S.C. 1982) 280 S.C. 29, 310 S.E.2d 805, certiorari denied 103 S.Ct. 3098, 462 U.S. 1124, 77 L.Ed.2d 1356, denial of habeas corpus vacated 106 S.Ct. 218, 474 U.S. 896, 88 L.Ed.2d 218, on remand 290 S.C. 231, 349 S.E.2d 84.</p>

State	Summary	Relevant statutes	Notes and/or notable case law (if found)
<p><b>South Dakota</b></p>	<p>Felony murder classified as first degree for listed felonies.</p> <p>No primary limits to aiding and abetting felony murder liability.</p> <p>Secondary limit: Predicate felony must be part of a statutorily enumerated list for maximum liability to attach.</p>	<p>SDCL § 22-16-4. Homicide as murder in the first degree. Homicide is murder in the first degree :</p> <p>(2) If committed by a person engaged in the perpetration of, or attempt to perpetrate, any arson, rape, robbery, burglary, kidnapping, or unlawful throwing, placing, or discharging of a destructive device or explosive.</p> <p>SDCL § 22-16-12 Classification of murder Murder in the first degree is a Class A felony. Murder in the second degree is a Class B felony. SDCL § 22-3-3. Aiding, abetting or advising--Accountability as principal. Any person who, with the intent to promote or facilitate the commission of a crime, aids, abets, or advises another person in planning or committing the crime, is legally accountable, as a principal to the crime. 22-3-3.1. Distinction between accessory before the fact and principal abrogated. The distinction between an accessory before the fact and a principal, and between principals in the first and second degree, in cases of felony, is abrogated. Any person connected with the commission of a felony, whether that person directly commits the act constituting the offense or aids and abets in its commission, though not present, shall be prosecuted, tried, and punished as a principal.</p> <p>SDCL §22-6-1. Felony classes and penalties--Restitution--Habitual criminal sentences Except as otherwise provided by law, felonies are divided into the following nine classes which are distinguished from each other by the following maximum penalties which are authorized upon conviction: (1) Class A felony: death or life imprisonment in the state penitentiary. A lesser sentence than death or life imprisonment may not be given for a Class A felony. In addition, a fine of fifty thousand dollars may be imposed; (2) Class B felony: life imprisonment in the state penitentiary. A lesser sentence may not be given for a Class B felony. In addition, a fine of fifty thousand dollars may be imposed;</p>	<p>Felony murder does not require the completion of a robbery; felony murder may involve the mere attempt to commit robbery. <i>State v. Roubideaux</i>, 755 N.W.2d 114, 2008 S.D. 81.</p>

State	Summary	Relevant statutes	Notes and/or notable case law (if found)
Tennessee	<p>Full felony murder for listed felonies. Classified as first degree murder. Statute specifies no "culpable mental state" required.</p> <p>No primary limits to aiding and abetting felony murder liability.</p> <p>Secondary limits: Mental state or act requirement before maximum liability attaches. Predicate felony must be part of a statutorily enumerated list for maximum liability to attach.</p>	<p>T. C. A. § 39-13-202 First degree murder</p> <p>(a) First degree murder is:</p> <p>(2) A killing of another committed in the perpetration of or attempt to perpetrate any first degree murder, arson, rape, robbery, burglary, theft, kidnapping, aggravated abuse of an elderly or vulnerable adult in violation of § 39-15-511, aggravated neglect of an elderly or vulnerable adult in violation of § 39-15-508, aggravated child abuse, aggravated child neglect, rape of a child, aggravated rape of a child, or aircraft piracy;</p> <p>(b) No culpable mental state is required for conviction under subdivisions (a)(2)-(4), except the intent to commit the enumerated offenses or acts in those subdivisions.</p> <p>T.C.A. § 39-11-402. Criminal responsibility for conduct of another.</p> <p>A person is criminally responsible for an offense committed by the conduct of another, if:</p> <p>(1) Acting with the culpability required for the offense, the person causes or aids an innocent or irresponsible person to engage in conduct prohibited by the definition of the offense;</p> <p>(2) Acting with intent to promote or assist the commission of the offense, or to benefit in the proceeds or results of the offense, the person solicits, directs, aids, or attempts to aid another person to commit the offense; or</p> <p>(3) Having a duty imposed by law or voluntarily undertaken to prevent commission of the offense and acting with intent to benefit in the proceeds or results of the offense, or to promote or assist its commission, the person fails to make a reasonable effort to prevent commission of the offense.</p> <p>T. C. A. § 39-13-202</p> <p>(c)(1) Except as provided in subdivision (c)(2), a person convicted of first degree murder under subdivisions (a)(1)-(4) shall be punished by: (A) Death; (B) Imprisonment for life without possibility of parole; or (C) Imprisonment for life.</p> <p>(2) If a person convicted of first degree murder under subdivision (a)(4) was an adult at the time of commission of the offense, then the person shall be punished by: (A) Death; or (B) Imprisonment for life without possibility of parole.</p>	<p>Legislature in adopting first-degree murder statute as part of revised criminal code abandoned pure felony murder doctrine and adopted modified version of offense of reckless murder under Model Penal Code; to establish crime of first-degree murder based on killing which occurs during commission of felony, prosecution must prove that killing was committed with culpable mental state of "reckless" and that killing was committed in perpetration of enumerated felony. <i>State v. Gilliam</i>, 1995, 901 S.W.2d 385, opinion after remand 1995 WL 295274.</p> <p>Mental element of "knowing" is not included in felony murder, which only requires "reckless" killing; accordingly, second-degree murder cannot be lesser included offense of first-degree felony murder, as in order to find defendant guilty of second-degree murder element not contained in first-degree felony murder, mental element of "knowing" must be established. <i>State v. Gilliam</i>, 1995, 901 S.W.2d 385, opinion after remand 1995 WL 295274.</p>

State	Summary	Relevant statutes	Notes and/or notable case law (if found)
Texas	<p>Felony murder is first degree murder. Statute does not specify specific felonies. <i>Bourdreaux v. State</i> requires the State prove an act "clearly dangerous to human life," causation between that act and death, and connection between the predicate felony and the dangerous act.</p> <p>No primary limits to aiding and abetting felony murder liability.</p> <p>Secondary limit: Mental state or act requirement before felony murder attaches.</p>	<p>TX PENAL § 19.02. Murder</p> <p>(b) A person commits an offense if he:</p> <p>(3) commits or attempts to commit a felony, other than manslaughter, and in the course of and in furtherance of the commission or attempt, or in immediate flight from the commission or attempt, he commits or attempts to commit an act clearly dangerous to human life that causes the death of an individual.</p> <p>(c) Except as provided by Subsection (d), an offense under this section is a felony of the first degree.</p> <p>TX PENAL § 7.02. Criminal Responsibility for Conduct of Another.</p> <p>(a) A person is criminally responsible for an offense committed by the conduct of another if:</p> <p>(1) acting with the kind of culpability required for the offense, he causes or aids an innocent or nonresponsible person to engage in conduct prohibited by the definition of the offense;</p> <p>(2) acting with intent to promote or assist the commission of the offense, he solicits, encourages, directs, aids, or attempts to aid the other person to commit the offense; or</p> <p>(3) having a legal duty to prevent commission of the offense and acting with intent to promote or assist its commission, he fails to make a reasonable effort to prevent commission of the offense.</p> <p>(b) If, in the attempt to carry out a conspiracy to commit one felony, another felony is committed by one of the conspirators, all conspirators are guilty of the felony actually committed, though having no intent to commit it, if the offense was committed in furtherance of the unlawful purpose and was one that should have been anticipated as a result of the carrying out of the conspiracy.</p> <p>TX Penal § 12.32. First Degree Felony Punishment</p> <p>(a) An individual adjudged guilty of a felony of the first degree shall be punished by imprisonment in the Texas Department of Criminal Justice for life or for any term of not more than 99 years or less than 5 years.</p> <p>(b) In addition to imprisonment, an individual adjudged guilty of a felony of the first degree may be punished by a fine not to exceed \$10,000.</p>	<p>Under the felony murder statute, the State must prove five things: (1) an underlying felony, (2) an act clearly dangerous to human life, (3) the death of an individual, (4) causation (the dangerous act causes the death), and (5) a connection between the underlying felony and the dangerous act (in the course of and in furtherance of or in immediate flight from). <i>Boudreaux v. State</i> (App. 14 Dist. 2020) 2020 WL 2214447, petition for discretionary review refused.</p> <p>Only when the underlying felony is manslaughter or a lesser included offense of manslaughter will a conviction for felony murder be precluded. <i>Johnson v. State</i> (Cr.App. 1999) 4 S.W.3d 254.</p>

State	Summary	Relevant statutes	Notes and/or notable case law (if found)
Utah	<p>Felony murder for listed offense is murder in the first degree. Person who dies must not be a participant in the felony for liability to attach.</p> <p>No primary limits to aiding and abetting felony murder liability.</p> <p>Secondary limits: Person who died must not be participant in predicate felony. Predicate felony must be part of a statutorily enumerated list for maximum liability to attach.</p>	<p>UT ST § 76-5-203 Murder</p> <p>(1) As used in this section, “predicate offense” means:</p> <p>(a) a clandestine drug lab violation under Section 58-37d-4 or 58-37d-5;</p> <p>(b) child abuse, under Subsection 76-5-109(2)(a), when the victim is younger than 18 years of age;</p> <p>(c) kidnapping under Section 76-5-301;</p> <p>(d) child kidnapping under Section 76-5-301.1;</p> <p>(e) aggravated kidnapping under Section 76-5-302;</p> <p>(f) rape of a child under Section 76-5-402.1;</p> <p>(g) object rape of a child under Section 76-5-402.3;</p> <p>(h) sodomy upon a child under Section 76-5-403.1;</p> <p>(i) forcible sexual abuse under Section 76-5-404;</p> <p>(j) sexual abuse of a child or aggravated sexual abuse of a child under Section 76-5-404.1;</p> <p>(k) rape under Section 76-5-402;</p> <p>(l) object rape under Section 76-5-402.2;</p> <p>(m) forcible sodomy under Section 76-5-403;</p> <p>(n) aggravated sexual assault under Section 76-5-405;</p> <p>(o) arson under Section 76-6-102;</p> <p>(p) aggravated arson under Section 76-6-103;</p> <p>(q) burglary under Section 76-6-202;</p> <p>(r) aggravated burglary under Section 76-6-203;</p> <p>(s) robbery under Section 76-6-301;</p> <p>(t) aggravated robbery under Section 76-6-302;</p> <p>(u) escape or aggravated escape under Section 76-8-309; or</p> <p>(v) a felony violation of Section 76-10-508 or 76-10-508.1 regarding discharge of a firearm or dangerous weapon.</p> <p>(2) Criminal homicide constitutes murder if:</p> <p>(d)(i) the actor is engaged in the commission, attempted commission, or immediate flight from the commission or attempted commission of any predicate offense, or is a party to the predicate offense;</p> <p>(ii) a person other than a party as defined in Section 76-2-202 is killed in the course of the commission, attempted commission, or immediate flight from the commission or attempted commission of any predicate offense; and</p>	<p>Second-degree felony-murder statute applies only when defendant, during commission of one of enumerated felonies, causes death of person other than “party,” which distinguishes that offense from first-degree felony-murder, which occurs when defendant kills person who is victim of enumerated felony. <i>State v. Norton</i>, 1983, 675 P.2d 577, certiorari denied 104 S.Ct. 1923, 466 U.S. 942, 80 L.Ed.2d 470.</p>

State	Summary	Relevant statutes	Notes and/or notable case law (if found)
Utah		<p>(iii) the actor acted with the intent required as an element of the predicate offense;§ 76-2-202UT ST § 76-5-203 Murder</p> <p>(3)(a) Murder is a first degree felony.</p> <p>(b) A person who is convicted of murder shall be sentenced to imprisonment for an indeterminate term of not less than 15 years and which may be for life.</p> <p>(5)(a) Any predicate offense described in Subsection (1) that constitutes a separate offense does not merge with the crime of murder.</p> <p>(b) A person who is convicted of murder, based on a predicate offense described in Subsection (1) that constitutes a separate offense, may also be convicted of, and punished for, the separate offense.</p>	

State	Summary	Relevant statutes	Notes and/or notable case law (if found)
Vermont	<p>Felony murder for enumerated felonies is classified as first degree murder, but, from case law, there is a certain level of intent required (i.e. not carried over from the underlying felony).</p> <p>No primary limits to aiding and abetting felony murder liability.</p> <p>Secondary limits: Mental state or act requirement before maximum liability attaches. Predicate felony must be part of a statutorily enumerated list for maximum liability to attach.</p>	<p>VT ST T. 13 § 2301. Murder - Degrees defined. Murder committed by means of poison, or by lying in wait, or by willful, deliberate, and premeditated killing, or committed in perpetrating or attempting to perpetrate arson, sexual assault, aggravated sexual assault, kidnapping, robbery, or burglary shall be murder in the first degree. All other kinds of murder shall be murder in the second degree. 13 V.S.A. §§ 3, 4</p> <p>VT ST T. 13 § 2303. Penalties for first and second degree murder</p> <p>(a)(1) The punishment for murder in the first degree shall be imprisonment for:</p> <p>(A) a minimum term of not less than 35 years and a maximum term of life; or</p> <p>(B) life without the possibility of parole.</p> <p>(2) The punishment for murder in the second degree shall be imprisonment for:</p> <p>(A) a minimum term of not less than 20 years and a maximum term of life; or</p> <p>(B) life without the possibility of parole.</p> <p>(e) Aggravating factors shall include the following:</p> <p>(3) The murder was committed while the defendant was engaged in the commission of, or in an attempt to commit, or in immediate flight after committing a felony.</p> <p>(f) Mitigating factors shall include the following:</p> <p>(3) The defendant was an accomplice in the murder committed by another person and his or her participation was relatively minor.</p>	<p>In a first-degree felony-murder prosecution, in addition to proving a defendant's intent to commit one of the felonies enumerated in the felony-murder statute, the State must establish that the defendant had one of the mental states for second-degree murder: the intent to kill, the intent to do great bodily harm, or a wanton disregard for human life with respect to the murder itself. <i>State v. Baird</i>, 2017, 175 A.3d 493, 205 Vt. 364.</p> <p>In a first-degree felony-murder prosecution, the State must prove the individual liability of each felon because it is fundamentally unfair and in violation of basic principles of individual criminal culpability to hold one felon liable for the unforeseen and unagreed-to results of another felon. <i>State v. Baird</i>, 2017, 175 A.3d 493, 205 Vt. 364.</p> <p>The felony-murder statute precludes prosecution for first-degree murder based solely on evidence that a defendant intended to commit one of the enumerated felonies. <i>State v. Baird</i>, 2017, 175 A.3d 493, 205 Vt. 364.</p>

State	Summary	Relevant statutes	Notes and/or notable case law (if found)
Virginia	<p>Full felony murder. Unless felony is specifically listed in the first degree murder statute, felony murder will be classified as second degree.</p> <p>No primary limits to aiding and abetting felony murder liability.</p> <p>Secondary limit: Predicate felony must be part of a statutorily enumerated list for maximum liability to attach.</p>	<p>VA Code Ann. § 18.2-33. Felony homicide defined; punishment The killing of one accidentally, contrary to the intention of the parties, while in the prosecution of some felonious act other than those specified in §§ 18.2-31 and 18.2-32, is murder of the second degree and is punishable by confinement in a state correctional facility for not less than five years nor more than forty years.</p> <p>VA Code Ann. § 18.2-32. First and second degree murder defined; punishment Murder, other than aggravated murder, by poison, lying in wait, imprisonment, starving, or by any willful, deliberate, and premeditated killing, or in the commission of, or attempt to commit, arson, rape, forcible sodomy, inanimate or animate object sexual penetration, robbery, burglary or abduction, except as provided in § 18.2-31, is murder of the first degree, punishable as a Class 2 felony. All murder other than aggravated murder and murder in the first degree is murder of the second degree and is punishable by confinement in a state correctional facility for not less than five nor more than forty years.</p> <p>VA Code Ann. § 18.2-31. Aggravated murder defined; punishment A. The following offenses shall constitute aggravated murder, punishable as a Class 1 felony: (All subdivisions require, "The willful, deliberate, and premeditated killing of any person...") §18.2-18" is punishable by confinement in a state correctional facility for not less than five years nor more than forty years." - VA Code Ann. § 18.2-33.</p>	<p>"Murder" for purposes of felony-murder statute is common-law murder coupled with contemporaneous commission or attempted commission of one of the listed felonies. <i>Wooden v. Com.</i>, 1981, 284 S.E.2d 811, 222 Va. 758.</p> <p>In felony-murder case, malice inherent in predicate felony is sufficient to prove malice required for conviction of second-degree murder. <i>Betancourt v. Com.</i>, 1998, 494 S.E.2d 873, 26 Va.App. 363.</p>

State	Summary	Relevant statutes	Notes and/or notable case law (if found)
<b>Washington</b>	<p>Felony murder is first degree murder for the enumerated felonies. For all other felonies it is second degree murder. For both first and second degree felony murder, there is an affirmative defense.</p> <p>No primary limits to aiding and abetting felony murder liability.</p> <p>Secondary limits: Person who died must not be participant in predicate felony. Affirmative defense. Predicate felony must be part of a statutorily enumerated list for maximum liability to attach.</p>	<p>RCWA §9A.32.030. Murder in the first degree</p> <p>1) A person is guilty of murder in the first degree when:</p> <p>(c) He or she commits or attempts to commit the crime of either (1) robbery in the first or second degree, (2) rape in the first or second degree, (3) burglary in the first degree, (4) arson in the first or second degree, or (5) kidnapping in the first or second degree, and in the course of or in furtherance of such crime or in immediate flight therefrom, he or she, or another participant, causes the death of a person other than one of the participants:</p> <p>Except that in any prosecution under this subdivision (1)(c) in which the defendant was not the only participant in the underlying crime, if established by the defendant by a preponderance of the evidence, it is a defense that the defendant:</p> <p>(i) Did not commit the homicidal act or in any way solicit, request, command, importune, cause, or aid the commission thereof; and</p> <p>(ii) Was not armed with a deadly weapon, or any instrument, article, or substance readily capable of causing death or serious physical injury; and</p> <p>(iii) Had no reasonable grounds to believe that any other participant was armed with such a weapon, instrument, article, or substance; and</p> <p>(iv) Had no reasonable grounds to believe that any other participant intended to engage in conduct likely to result in death or serious physical injury.</p> <p>(2) Murder in the first degree is a class A felony.</p> <p>RCWA § 9A.32.050: murder in the second degree</p> <p>(1) A person is guilty of murder in the second degree when:</p> <p>(b) He or she commits or attempts to commit any felony, including assault, other than those enumerated in RCW 9A.32.030(1)(c), and, in the course of and in furtherance of such crime or in immediate flight therefrom, he or she, or another participant, causes the death of a person other than one of the participants;</p>	

State	Summary	Relevant statutes	Notes and/or notable case law (if found)
Washington		<p>except that in any prosecution under this subdivision (1)(b) in which the defendant was not the only participant in the underlying crime, if established by the defendant by a preponderance of the evidence, it is a defense that the defendant:(i) Did not commit the homicidal act or in any way solicit, request, command, importune, cause, or aid the commission thereof; and (ii) Was not armed with a deadly weapon, or any instrument, article, or substance readily capable of causing death or serious physical injury; and (iii) Had no reasonable grounds to believe that any other participant was armed with such a weapon, instrument, article, or substance; and (iv) Had no reasonable grounds to believe that any other participant intended to engage in conduct likely to result in death or serious physical injury.</p> <p>(2) Murder in the second degree is a class A felony. Affirmative Defense. Statute also provides that death must be of a person other than a participant.</p> <p>RCWA § 9A.32.040. Murder in the first degree Sentence Notwithstanding RCW § 9A.32.030(2), any person convicted of the crime of murder in the first degree shall be sentenced to life imprisonment.</p> <p>RCWA § 9A.20.021. Maximum sentences for crimes committed July 1, 1984, and after</p> <p>(1) Felony. Unless a different maximum sentence for a classified felony is specifically established by a statute of this state, no person convicted of a classified felony shall be punished by confinement or fine exceeding the following:</p> <p>(a) For a class A felony, by confinement in a state correctional institution for a term of life imprisonment, or by a fine in an amount fixed by the court of fifty thousand dollars, or by both such confinement and fine;</p>	

State	Summary	Relevant statutes	Notes and/or notable case law (if found)
<p><b>West Virginia</b></p>	<p>Full felony murder for the enumerated felonies. Classified as first degree murder.</p> <p>No primary limits to aiding and abetting felony murder liability.</p> <p>Secondary limits: Person causing death must be defendant or an associate of the defendant. Predicate felony must be part of a statutorily enumerated list for maximum liability to attach.</p>	<p>W. Va. Code, § 61-2-1. First and second degree murder defined; allegations in indictment for homicide Murder by poison, lying in wait, imprisonment, starving, or by any willful, deliberate and premeditated killing, or in the commission of, or attempt to commit, arson, kidnapping, sexual assault, robbery, burglary, breaking and entering, escape from lawful custody, or a felony offense of manufacturing or delivering a controlled substance as defined in article four, chapter sixty-a of this code, is murder of the first degree. All other murder is murder of the second degree.</p> <p>In an indictment for murder and manslaughter, it shall not be necessary to set forth the manner in which, or the means by which, the death of the deceased was caused, but it shall be sufficient in every such indictment to charge that the defendant did feloniously, willfully, maliciously, deliberately and unlawfully slay, kill and murder the deceased. § 61-11-6W. Va. Code, § 61-2-2. Penalty for murder of first degree. Murder of the first degree shall be punished by confinement in the penitentiary for life.</p>	<p>When a co-perpetrator is killed by the intended victim of a burglary during the commission of a crime, the surviving co-perpetrator cannot be charged with felony murder. <i>Flack v. Ballard</i>, 2017, 803 S.E.2d 536, 239 W.Va. 566.</p> <p>Felony-murder statute alters the scope of the common-law rule by confining its application to the crimes of arson, rape, robbery and burglary or the attempt to commit such crimes. <i>State v. Sims</i>, 1978, 248 S.E.2d 834, 162 W.Va. 212.</p>

State	Summary	Relevant statutes	Notes and/or notable case law (if found)
<b>Wisconsin</b>	<p>Full felony murder for the enumerated felonies.</p> <p>No primary limits to aiding and abetting felony murder liability.</p> <p>Secondary limit: Predicate felony must be part of a statutorily enumerated list for maximum liability to attach.</p>	<p>W.S.A. 940.03 Felony murder Whoever causes the death of another human being while committing or attempting to commit a crime specified in s. 940.19, 940.195, 940.20, 940.201, 940.203, 940.225(1) or (2)(a), 940.30, 940.31, 943.02, 943.10(2), 943.23(1g), or 943.32(2) may be imprisoned for not more than 15 years in excess of the maximum term of imprisonment provided by law for that crime or attempt. § 939.05</p> <p>W.S.A. 940.03 Felony murder ...may be imprisoned for not more than 15 years in excess of the maximum term of imprisonment provided by law for that crime or attempt.</p>	

State	Summary	Relevant statutes	Notes and/or notable case law (if found)
<b>Wyoming</b>	<p>Full felony murder for the enumerated felonies. Classified as first degree murder.</p> <p>No primary limits to aiding and abetting felony murder liability.</p> <p>Secondary limit: Predicate felony must be part of a statutorily enumerated list for maximum liability to attach.</p>	<p>W.S.1977 § 6-2-101. Murder in the first degree; penalty (a) Whoever purposely and with premeditated malice, or in the perpetration of, or attempt to perpetrate, any sexual assault, sexual abuse of a minor, arson, robbery, burglary, escape, resisting arrest, kidnapping or abuse of a child under the age of sixteen (16) years, kills any human being is guilty of murder in the first degree. § 6-1-201</p> <p>W.S.1977 § 6-2-101. Murder in the first degree; penalty (b) A person convicted of murder in the first degree shall be punished by death, life imprisonment without parole or life imprisonment according to law, except that a person convicted of murder in the first degree who was under the age of eighteen (18) years at the time of the offense shall be punished by life imprisonment.</p> <p>(c) A person convicted of murder in the first degree in a case in which the state seeks the death penalty shall be sentenced in accordance with the provisions of W.S. 6-2-102. In all other cases, including any case in which the state has determined not to seek the death penalty at any stage of the proceeding, the judge shall determine the sentence of life imprisonment without parole or life imprisonment taking into consideration any negotiated plea agreement and any evidence relevant to a determination of sentence which the court deems to have probative value.</p>	<p>Determination of whether felony murder doctrine should be further limited, as by recognizing “no-culpability” defense, and appropriate manner of so doing, are matters for the legislature; consequently, Supreme Court would decline to judicially adopt that affirmative defense. <i>Mares v. State</i>, 1997, 939 P.2d 724.</p>

## Appendix E. Sample legislation for implementation of Recommendations 1. and 2.

### California Penal Code 187

(a) Murder is the unlawful killing of a human being, or a fetus, with malice aforethought.

(b) This section shall not apply to any person who commits an act that results in the death of a fetus if any of the following apply:

(1) The act complied with the Therapeutic Abortion Act, Article 2 (commencing with Section 123400) of Chapter 2 of Part 2 of Division 106 of the Health and Safety Code.

(2) The act was committed by a holder of a physician's and surgeon's certificate, as defined in the Business and Professions Code, in a case where, to a medical certainty, the result of childbirth would be death of the mother of the fetus or where her death from childbirth, although not medically certain, would be substantially certain or more likely than not.

(3) The act was solicited, aided, abetted, or consented to by the mother of the fetus.

(c) Subdivision (b) shall not be construed to prohibit the prosecution of any person under any other provision of law.

*(Amended by Stats. 1996, Ch. 1023, Sec. 385. Effective September 29, 1996.)*

### California Penal Code 188

(a) For purposes of Section 187, malice may be express or implied.

(1) Malice is express when there is manifested a deliberate intention to unlawfully take away the life of a fellow creature.

(2) Malice is implied when no considerable provocation appears, or when the circumstances attending the killing show an abandoned and malignant heart.

(3) Except as stated in subdivision (e) of Section 189, in order to be convicted of murder, a principal in a crime shall act with malice aforethought. Malice shall not be imputed to a person based solely on his or her participation in a crime.

(b) If it is shown that the killing resulted from an intentional act with express or implied malice, as defined in subdivision (a), no other mental state need be shown to establish the mental state of malice aforethought. Neither an awareness of the obligation to act within the general body of laws regulating society nor acting despite that awareness is included within the definition of malice.

*(Amended by Stats. 2018, Ch. 1015, Sec. 2. (SB 1437) Effective January 1, 2019.)*

## California Penal Code 189

(a) All murder that is perpetrated by means of a destructive device or explosive, a weapon of mass destruction, knowing use of ammunition designed primarily to penetrate metal or armor, poison, lying in wait, torture, or by any other kind of willful, deliberate, and premeditated killing, or that is committed in the perpetration of, or attempt to perpetrate, arson, rape, carjacking, robbery, burglary, mayhem, kidnapping, train wrecking, or any act punishable under Section 206, 286, 287, 288, or 289, or former Section 288a, or murder that is perpetrated by means of discharging a firearm from a motor vehicle, intentionally at another person outside of the vehicle with the intent to inflict death, is murder of the first degree.

(b) All other kinds of murders are of the second degree.

(c) As used in this section, the following definitions apply:

(1) "Destructive device" has the same meaning as in Section 16460.

(2) "Explosive" has the same meaning as in Section 12000 of the Health and Safety Code.

(3) "Weapon of mass destruction" means any item defined in Section 11417.

(d) To prove the killing was "deliberate and premeditated," it is not necessary to prove the defendant maturely and meaningfully reflected upon the gravity of the defendant's act.

(e) A participant in the perpetration or attempted perpetration of a felony listed in subdivision (a) in which a death occurs is liable for murder only if one of the following is proven:

(1) The person was the actual killer.

(2) The person was not the actual killer, but, with the intent to kill, aided, abetted, counseled, commanded, induced, solicited, requested, or assisted the actual killer in the commission of murder in the first degree.

(3) The person was a major participant in the underlying felony and acted with reckless indifference to human life, as described in subdivision (d) of Section 190.2.

(f) Subdivision (e) does not apply to a defendant when the victim is a peace officer who was killed while in the course of the peace officer's duties, where the defendant knew or reasonably should have known that the victim was a peace officer engaged in the performance of the peace officer's duties.

*(Amended by Stats. 2019, Ch. 497, Sec. 192. (AB 991) Effective January 1, 2020. Note: This section was amended on June 5, 1990, by initiative Prop. 115.)*

## California Penal Code 1170.95

(a) A person convicted of felony murder or murder under the natural and probable consequences doctrine or other theory under which malice is imputed to a person based solely on that person's participation in a crime, attempted murder under the natural and probable consequences doctrine, or manslaughter may file a petition with the court that sentenced the petitioner to have the petitioner's murder, attempted murder, or manslaughter conviction vacated and to be resentenced on any remaining counts when all of the following conditions apply:

(1) A complaint, information, or indictment was filed against the petitioner that allowed the prosecution to proceed under a theory of felony murder, murder under the natural and probable consequences doctrine or other theory under which malice is imputed to a person based solely on that person's participation in a crime, or attempted murder under the natural and probable consequences doctrine.

(2) The petitioner was convicted of murder, attempted murder, or manslaughter following a trial or accepted a plea offer in lieu of a trial at which the petitioner could have been convicted of murder or attempted murder.

(3) The petitioner could not presently be convicted of murder or attempted murder because of changes to Section 188 or 189 made effective January 1, 2019.

(b) (1) The petition shall be filed with the court that sentenced the petitioner and served by the petitioner on the district attorney, or on the agency that prosecuted the petitioner, and on the attorney who represented the petitioner in the trial court or on the public defender of the county where the petitioner was convicted. If the judge that originally sentenced the petitioner is not available to resentence the petitioner, the presiding judge shall designate another judge to rule on the petition. The petition shall include all of the following:

(A) A declaration by the petitioner that the petitioner is eligible for relief under this section, based on all the requirements of subdivision (a).

(B) The superior court case number and year of the petitioner's conviction.

(C) Whether the petitioner requests the appointment of counsel.

(2) If any of the information required by this subdivision is missing from the petition and cannot be readily ascertained by the court, the court may deny the petition without prejudice to the filing of another petition and advise the petitioner that the matter cannot be considered without the missing information.

(3) Upon receiving a petition in which the information required by this subdivision is set forth or a petition where any missing information can readily be ascertained by the court, if the petitioner has requested counsel, the court shall appoint counsel to represent the petitioner.

(c) Within 60 days after service of a petition that meets the requirements set forth in subdivision (b), the prosecutor shall file and serve a response. The petitioner may file and serve a reply within 30 days after the prosecutor's response is served. These deadlines shall be extended for good cause. After the parties have had an opportunity to submit briefings, the court shall hold a hearing to determine whether the petitioner has made a prima facie case for relief. If the petitioner makes a prima facie showing that the petitioner is entitled to relief, the court shall issue an order to show cause. If the court declines to make an order to show cause, it shall provide a statement fully setting forth its reasons for doing so.

(d) (1) Within 60 days after the order to show cause has issued, the court shall hold a hearing to determine whether to vacate the murder, attempted murder, or manslaughter conviction and to recall the sentence and resentence the petitioner on any remaining counts in the same manner as if the petitioner had not previously been sentenced, provided that the new sentence, if any, is not greater than the initial sentence. This deadline may be extended for good cause.

(2) The parties may waive a resentencing hearing and stipulate that the petitioner is eligible to have the murder, attempted murder, or manslaughter conviction vacated and to be resentenced. If there was a prior finding by a court or

jury that the petitioner did not act with reckless indifference to human life or was not a major participant in the felony, the court shall vacate the petitioner's conviction and resentence the petitioner.

(3) At the hearing to determine whether the petitioner is entitled to relief, the burden of proof shall be on the prosecution to prove, beyond a reasonable doubt, that the petitioner is guilty of murder or attempted murder under California law as amended by the changes to Section 188 or 189 made effective January 1, 2019. The admission of evidence in the hearing shall be governed by the Evidence Code, except that the court may consider evidence previously admitted at any prior hearing or trial that is admissible under current law, including witness testimony, stipulated evidence, and matters judicially noticed. The court may also consider the procedural history of the case recited in any prior appellate opinion. However, hearsay evidence that was admitted in a preliminary hearing pursuant to subdivision (b) of Section 872 shall be excluded from the hearing as hearsay, unless the evidence is admissible pursuant to another exception to the hearsay rule. The prosecutor and the petitioner may also offer new or additional evidence to meet their respective burdens. A finding that there is substantial evidence to support a conviction for murder, attempted murder, or manslaughter is insufficient to prove, beyond a reasonable doubt, that the petitioner is ineligible for resentencing. If the prosecution fails to sustain its burden of proof, the prior conviction, and any allegations and enhancements attached to the conviction, shall be vacated and the petitioner shall be resented on the remaining charges.

(e) The petitioner's conviction shall be redesignated as the target offense or underlying felony for resentencing purposes if the petitioner is entitled to relief pursuant to this section, murder or attempted murder was charged generically, and the target offense was not charged. Any applicable statute of limitations shall not be a bar to the court's redesignation of the offense for this purpose.

(f) This section does not diminish or abrogate any rights or remedies otherwise available to the petitioner.

(g) A person convicted of murder, attempted murder, or manslaughter whose conviction is not final may challenge on direct appeal the validity of that conviction based on the changes made to Sections 188 and 189 by Senate Bill 1437 (Chapter 1015 of the Statutes of 2018).

(h) A person who is resented pursuant to this section shall be given credit for time served. The judge may order the petitioner to be subject to parole supervision for up to two years following the completion of the sentence.

*(Amended by Stats. 2021, Ch. 551, Sec. 2. (SB 775) Effective January 1, 2022.)*