

STATE OF NEW YORK

8929--A

2025-2026 Regular Sessions

IN ASSEMBLY

July 16, 2025

Introduced by M. of A. R. CARROLL, FORREST, SIMON, LEVENBERG -- read once and referred to the Committee on Codes -- recommitted to the Committee on Codes in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the criminal procedure law, in relation to convictions under felony murder provisions; and to repeal certain provisions of the penal law relating thereto

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Legislative findings and intent. The legislature hereby
2 finds and declares the following:
3 a. The current provisions of New York's penal law pertaining to felony
4 murder eliminate the distinction between intentional and unintentional
5 homicide and are therefore not consistent with the principle of propor-
6 tionality in charging and sentencing. Felony murder doctrine allows a
7 defendant to be charged and sentenced for murder in circumstances where
8 they were committing or attempting to commit a felony but did not actu-
9 ally commit a homicidal act, intend that a homicidal act be committed,
10 or even know that another person had committed such an act. Under
11 current state law, an accomplice to a crime, for example someone driving
12 a getaway car, may be charged with murder as if they had actually shot
13 someone in the course of a crime such as robbery even in a circumstance
14 where they were unarmed and physically removed from the site of the
15 murder. Evidence from other states indicates that as many as one in five
16 individuals serving prison sentences for murder have been convicted
17 based on the felony murder doctrine. Studies have also found that
18 prosecutors use the threat of felony murder charges to obtain plea deals
19 for lengthy sentences, demonstrating felony murder doctrine's role in
20 extreme sentencing and mass incarceration.

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

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b. Felony murder doctrine originated in England but was banned there in 1957 and subsequently in other Commonwealth countries including Canada, which banned it in 1990. The United States is an outlier globally in its application of felony murder doctrine, although some states, have in the last five years introduced significant reforms with California and Minnesota reintroducing the intention to kill as a requirement for the application of felony murder charges. New York, however, remains one of just thirteen states including Texas and Florida, where the felony murder doctrine is applied by prosecutors to pursue murder charges when the individual committing a homicidal act is a third party such as a victim holding their ground, a law enforcement officer, or a bystander.

c. Evidence from across the country, reveals that felony murder laws have disproportionately negative consequences for non-white people, young people, and victims of domestic violence: in Pennsylvania eighty percent of those imprisoned with a felony murder conviction were people of color; in California sixty-eight percent of those serving time for felony murder are black or Latinx; according to the California Coalition for Women Prisoners, the majority of their members convicted of felony murder were victims of domestic violence; and a recent study by professors from the University of Buffalo found that Black people were almost twenty times and Latinx people almost six times as likely as white people to be arrested for and charged with felony murder.

d. Repealing felony murder liability and providing for vacatur and resentencing eligibility for those who have previously been convicted and/or charged with felony murder is the most effective way to reform New York's Penal Law to align with international norms regarding proportional sentencing and reforms being undertaken in other jurisdictions in the United States.

§ 2. Subdivision 3 of section 125.25 of the penal law is REPEALED.

§ 3. The criminal procedure law is amended by adding a new section 440.48 to read as follows.

§ 440.48 Motion to vacate judgment and resentence; felony murder convictions.

1. Vacatur. Eligible persons as defined by subdivision two of this section shall be entitled to automatic vacatur of the conviction of former subdivision three of 125.25 of the penal law.

2. Eligibility for vacatur. Persons eligible for vacatur include all persons convicted under former subdivision three of section 125.25 of the penal law.

3. The vacatur process. Automatic vacatur shall be provided for all persons eligible pursuant to this section and shall take place no later than thirty days after the effective date of this section.

(a) The office of court administration shall notify all persons eligible for automatic vacatur via last known address and as well as notify last known counsel via first class mail at last known address.

(b) The office of court administration shall, concurrent with notice, communicate directly to the department of corrections and community supervision the names of all persons who are eligible for automatic vacatur. The department of corrections and community supervision shall then timely compare the list of eligible people with the names of people under their custody and control. When an eligible person is under the custody and control of the department of corrections and community supervision, such department shall immediately notify the eligible person that they are eligible for vacatur.

(c) The office of court administration shall, concurrent with notice, but no later than thirty days from after the effective date of this

1 section, direct the original sentencing court to vacate the conviction
2 of each person convicted under former subdivision three of section
3 125.25 of the penal law and dismiss such charge. Where the person is
4 under the custody and control of the department of corrections and
5 community supervision, the sentencing court shall immediately inform
6 such department. The department of corrections and community supervision
7 shall, immediately upon notice of vacatur, release any person who was in
8 custody solely as a result of a conviction under former subdivision
9 three of section 125.25 of the penal law and/or terminate any remaining
10 post release or parole supervision for such person.

11 (d) Any other convictions under the penal law shall remain in place;
12 provided, however, that those remaining convictions may be subject to
13 resentencing pursuant to subdivision four of this section.

14 (e) In accordance with subdivision one of this section, eligible
15 persons whose conviction under former subdivision three of 125.25 of the
16 penal law was not automatically vacated may submit to the original
17 sentencing court a petition to ensure that a conviction to former subdivi-
18 vision three of section 125.25 of the penal law has been duly vacated.
19 If, at the time of such person's petition:

20 (i) the original sentencing judge or justice is a judge or justice of
21 the original sentencing court, the request shall be assigned to such
22 judge or justice in such court.

23 (ii) the original sentencing judge or justice is not a judge or
24 justice of the original sentencing court, then the request shall be
25 randomly assigned to another judge or justice of such court.

26 (f) Upon confirmation from the court file that the petitioner has been
27 convicted under former subdivision three of 125.25 of the penal law and
28 that the conviction was not automatically vacated, the court shall
29 vacate the conviction under such former subdivision and send notice of
30 vacatur to the petitioner.

31 (g) Eligible persons may also directly petition the original sentenc-
32 ing court for vacatur in the absence of notice from the office of court
33 administration. Eligible persons may request the court vacate the
34 conviction under former subdivision three of 125.25 of the penal law and
35 any related sentence shall be immediately discharged pursuant to para-
36 graph (c) of this subdivision. A person who is eligible for vacatur may
37 request that the court timely assign such person an attorney. The attor-
38 ney shall be assigned in accordance with the provisions of subdivision
39 one of section seven hundred seventeen and subdivision four of section
40 seven hundred twenty-two of the county law and the related provisions of
41 article eighteen-A of such law for the application and any proceedings
42 under this section, including any appeal and successive application. The
43 court shall notify the applicant of the appointment of counsel.

44 4. Resentencing. Eligible persons as defined by paragraph (a) or (b)
45 of subdivision five of this section may file a petition to be resen-
46 tenced with the judge or justice who imposed the original sentence upon
47 such person. If, at the time of such person's petition:

48 (a) the original sentencing judge or justice is a judge or justice of
49 the original sentencing court, the request shall be assigned to such
50 judge or justice in such court.

51 (b) the original sentencing judge or justice is not a judge or justice
52 of the original sentencing court, then the request shall be randomly
53 assigned to another judge or justice of such court.

54 5. Eligibility to petition for resentencing. Persons eligible to peti-
55 tion for resentencing shall include, but not be limited to:

1 (a) all persons convicted at trial or by plea under former subdivision
2 three of section 125.25 of the penal law and serving a concurrent or
3 consecutive sentence for another conviction arising from the same
4 indictment.

5 (b) all persons convicted at trial or by plea and currently serving a
6 sentence where former subdivision three of section 125.25 of the penal
7 law was a count on the accusatory instrument or any accusatory instru-
8 ment that was superseded by that instrument and upon which the person
9 pled guilty or was tried.

10 6. Notice of eligibility to petition for resentencing. The office of
11 court administration shall notify all persons eligible to petition for
12 resentencing pursuant to subdivision five of this section, of such
13 eligibility no later than thirty days after the effective date of this
14 section.

15 (a) Such notice shall include the date of such conviction, the penal
16 law section for which they were convicted, and a copy of the accusatory
17 instrument under which they were convicted, including a statement of the
18 penal law sections charged in the accusatory instrument.

19 (b) Such notice shall be sent by first class mail to the last known
20 address of the eligible person as well as sent by first class mail to
21 last known counsel.

22 (c) The office of court administration shall, concurrent with notice
23 to the eligible person and counsel, communicate directly to the depart-
24 ment of corrections and community supervision the names of all persons
25 who are eligible to petition for resentencing. The department of
26 corrections and community supervision shall then timely compare the list
27 of eligible people with the names of people under their custody and
28 control. When an eligible person is under the custody and control of the
29 department of corrections and community supervision, such department
30 shall immediately notify the eligible person that they are eligible to
31 petition for resentencing.

32 7. The resentencing petition. A resentencing petition submitted under
33 this section shall include:

34 (a) (i) a statement by the petitioner that they are eligible for
35 relief, based on the requirements of paragraph (a) or (b) of subdivision
36 five of this section; or (ii) in the event the petitioner is represented
37 by counsel at the time of the petition, a sworn statement by such coun-
38 sel affirming the eligibility of the petitioner in lieu of a statement
39 by the petitioner; or

40 (b) a copy of the notice from the office of court administration,
41 pursuant to paragraph (a) of subdivision six of this section, notifying
42 the petitioner of their potential eligibility.

43 8. Initial review and actions by the court. (a) The court shall
44 conduct a timely review of the petition for relief and determine if the
45 petitioner has made a prima facie showing that the petitioner may be
46 eligible for relief under paragraph (a) or (b) of subdivision five of
47 this section. The court shall determine that the petitioner has made a
48 prima facie showing where the petitioner included a copy of the proper
49 notice from the office of court administration or where the accusatory
50 instrument confirms the petitioner or petitioner's counsel's statement
51 of eligibility. If the petition fails to demonstrate that the petitioner
52 is eligible for relief, the court shall notify such person and dismiss
53 such petition without prejudice.

54 (b) Upon a finding that a petitioner has made a prima facie case, the
55 court shall notify the petitioner and order a hearing and permit the

1 filing and serving of pre-hearing submissions in support of resentencing
2 as defined by subdivision ten of this section.

3 (c) Where no notice was included from the office of court adminis-
4 tration in the petition, the court shall request and receive a copy of
5 the accusatory instrument under which the petitioner was convicted or
6 any accusatory instrument that was superseded by that instrument and
7 upon which the person pled guilty or was tried from the clerk of the
8 court for inspection to confirm eligibility for resentencing prior to
9 conducting a review under this subdivision.

10 (d) In the event the petitioner is unrepresented by counsel and serv-
11 ing a sentence for crimes other than former subdivision three of section
12 125.25 of the penal law or arising from an accusatory instrument that
13 included former subdivision three of section 125.25 of the penal law or
14 any accusatory instrument that was superseded by that instrument and
15 upon which the person pled guilty or was tried, and seeks resentencing,
16 the petitioner may also petition the court for the assignment of counsel
17 as provided in subdivision nine of this section.

18 9. Assignment of counsel. A person who is eligible for resentencing
19 pursuant to paragraph (a) or (b) of subdivision five of this section may
20 request that the court timely assign such person an attorney for the
21 proceedings on the petition for resentencing, either at the time of the
22 petition for resentencing or after notice from the court of a hearing on
23 resentencing. The attorney shall be assigned in accordance with the
24 provisions of subdivision one of section seven hundred seventeen and
25 subdivision four of section seven hundred twenty-two of the county law
26 and the related provisions of article eighteen-A of such law for the
27 application and any proceedings under this section, including any appeal
28 and successive application. The court shall notify the applicant of the
29 appointment of counsel.

30 10. Pre-hearing submissions. (a) Upon the court granting a hearing on
31 resentencing, the applicant shall, within sixty days, file with the
32 court and serve on the prosecution any supporting materials. These mate-
33 rials may include, but are not limited to, submissions that either:

34 (i) the sentence is illegal or unauthorized pursuant to article seven-
35 ty of the penal law after vacatur of the conviction under former subdivi-
36 vision three of section 125.25 of the penal law;

37 (ii) in a case where a conviction under former subdivision three of
38 section 125.25 was vacated but where sentences for other convictions
39 remain, the remaining sentences were materially impacted by the
40 conviction under former subdivision three of section 125.25 of the penal
41 law;

42 (iii) in a case where there was no conviction under former subdivision
43 three of section 125.25 of the penal law, the sentence was materially
44 impacted by evidence relating to the death of the decedent; or

45 (iv) that the petitioner's decision to accept a plea of guilty was
46 materially impacted by the inclusion of former subdivision three of
47 section 125.25 of the penal law in the accusatory instrument or any
48 accusatory instrument that was superseded by that instrument and upon
49 which the person pled guilty or was tried.

50 (b) Upon receipt of such pre-hearing submissions in support of resen-
51 tencing, the court shall forthwith deliver a copy of the petition to the
52 prosecution. Upon receipt of pre-hearing submissions from an applicant,
53 the prosecution shall, within thirty days, serve and file any relevant
54 documents of an evidentiary nature that rebut the presumption of resen-
55 tencing as described in subdivision eleven of this section. These dead-
56 lines shall be extended for good cause or in the interest of justice.

1 11. The resentencing hearing. (a) There shall be a presumption in
2 favor of resentencing.

3 (b) At the hearing, the burden of proof shall be on the prosecution to
4 prove, beyond a reasonable doubt, that the petitioner is ineligible for
5 resentencing. If the prosecution fails to sustain its burden of proof,
6 the petitioner shall be resentenced pursuant to section 70.00 of the
7 penal law.

8 (c) Both parties shall be provided the opportunity to rely on the
9 record of conviction or present new or additional materials or evidence.
10 Prior to the hearing, the petitioner shall be entitled to any discovery
11 related to the original sentencing, including but not limited to any
12 prosecution plea negotiations or offers, any cooperation agreement
13 entered into by co-defendants or prosecution witnesses, summation of
14 prosecutors including any reference to former subdivision three of
15 section 125.25 of the penal law, any mitigation report, presentence
16 report, victim impact statements and any other related materials consid-
17 ered by the original sentencing court or newly discovered. Any relevant
18 evidence shall be admissible at such hearings.

19 (d) The court, after affording the parties an opportunity to be heard
20 and present evidence, shall determine any controverted issue of fact
21 relevant to the issue of sentencing. The court shall consider the effect
22 of former subdivision three of section 125.25 of the penal law on the
23 original plea, conviction and sentence and balance the interests of
24 justice to render a decision to deny or grant the petitioner's motion
25 for resentencing. Any order issued by a court pursuant to this section
26 shall include written findings of fact and the reasons for such order.
27 Where the court has denied the petition for resentencing, such order
28 shall be entered and the petitioner shall retain their right to appeal
29 as outlined in subdivision thirteen of this section and pursuant to
30 section 440.20 of this article.

31 12. Resentencing. Where the court has granted the petition for resen-
32 tencing the person who is resentenced pursuant to this section shall be
33 given credit for time served on the original sentence. If the new
34 sentence is an indeterminate sentence, it shall not be greater than the
35 initial sentence, and if the new sentence is a determinate sentence, the
36 term of imprisonment shall not be greater than the minimum term of the
37 initial sentence.

38 13. Appeal as right. An appeal may be taken as of right in accordance
39 with applicable provisions of this chapter:

40 (a) from an order denying resentencing; or

41 (b) from a new sentence imposed under this provision and may be based
42 on the grounds that: (i) the term of the new sentence is harsh or exces-
43 sive; or (ii) that the term of the new sentence is unauthorized as a
44 matter of law. An appeal in accordance with the applicable provisions
45 of this chapter may also be taken as of right by the applicant from
46 an order specifying and informing such applicant of the term of the
47 determinate sentence the court would impose upon resentencing on the
48 ground that the term of the proposed sentence is harsh or excessive;
49 upon remand to the sentencing court following such appeal the appli-
50 cant shall be given an opportunity to withdraw an application for
51 resentencing before any resentence is imposed. The applicant may
52 request that the court assign such applicant an attorney for the prepa-
53 ration of and proceedings on any appeals regarding such applicant's
54 application for resentencing pursuant to this section. The attorney
55 shall be assigned in accordance with the provisions of subdivision one
56 of section seven hundred seventeen and subdivision four of section seven

hundred twenty-two of the county law and the related provisions of article eighteen-a of such law.

§ 4. No later than thirty days after the effective date of this section, the division of criminal justice services shall issue a report to the chairs of the senate and assembly judiciary committees and to the chief administrative judge for the office of court administration which shall include, but need not be limited to: (a) The total number of people as well as the individual names and current locations of people currently incarcerated for a conviction under former subdivision 3 of section 125.25 of the penal law in New York state; and (b) the age, race, and gender breakdowns of such convictions.

§ 5. The office of court administration shall, within sixty days of the effective date of this section, identify all individuals currently under the custody or supervision of the department of corrections and community supervision who are serving a sentence pursuant to former subdivision three of section 125.25 of the penal law. The office of court administration shall notify all such individuals about this chapter and their potential eligibility to apply for vacatur and resentencing as required by subdivision six of section 440.48 of the criminal procedure law, as added by section three of this act. This notice shall include instructions for submitting an application and requesting counsel as provided in paragraph (g) of subdivision three and subdivision nine of section 440.48 of the criminal procedure law.

§ 6. (a) The clerk of the court, upon determination of an application filed pursuant to section 440.48 of the criminal procedure law, as added by section three of this act, shall report the following information to the office of court administration which shall be made available to the public:

(i) the name, department identification number, and race of each incarcerated individual who has been denied or granted resentencing;

(ii) how many years of imprisonment each incarcerated individual served at the time of the application;

(iii) any new sentence, if applicable;

(iv) the county and the name of the judge deciding the application; and

(v) whether the prosecutor consented, opposed or took no position on the application.

(b) The office of court administration shall provide an annual collective report containing the information received from the clerks of the court pursuant to paragraph (a) of this subdivision to the governor and legislature. The office of court administration shall not be required to provide such report where there are no applications pending for vacatur or resentences for a given year.

§ 7. This act shall take effect immediately; provided, however, section three of this act shall take effect on the sixtieth day after it shall have become a law.