



For Informational Purposes  
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## Senate Bill 1437

### Overview

Senate Bill (SB) 1437, “Accomplice Liability for Felony Murder,” which was signed into law Sept. 30, 2018, makes certain revisions to the felony murder rule concerning first-degree or second-degree murder. The changes in the law prohibit a participant in a specified felony in which death occurs from being liable for murder unless that person was the actual killer or the person was not the actual killer but, with the intent to kill, assisted the actual killer in the commission of the murder.

Existing law (the felony murder rule) provides that someone who aids and abets another in the commission of a crime is a principal and is just as culpable as the principal offender. Therefore, the punishment for a defendant who is not the actual killer, but who, with the intent to kill, aids, abets, counsels, commands, induces, solicits, requests, or assists in the commission of felony murder is the same as the punishment for the principal killer.

The new law does not eliminate the felony murder rule but it changes the rule and the California Supreme Court “natural and probable consequences doctrine” by prohibiting a defendant from being convicted of murder solely because they participated in a felony that resulted in a death.

The new law will go into effect Jan. 1, 2019, and will be applied retroactively, meaning qualified individuals previously convicted of felony first- or second-degree murder under the previous felony murder rule, and natural and probable consequences doctrine, may petition their sentencing court for resentencing.

As of Sept. 30, 2018, 14,225 inmates were serving sentences for first-degree murder, 7,368 were serving sentences for second-degree murder, and 380 were serving sentences for both first- and second-degree murder in the California Department of Corrections and Rehabilitation (CDCR). However, CDCR does not differentiate between principal offenders and accomplices, and therefore cannot determine how many of these individuals may qualify to petition for resentencing under the new law. Determining the number of offenders who may seek relief would require a manual review of the records of each inmate serving time for felony murder.

### Inmate eligibility

Individuals may apply for resentencing under the following conditions:

A complaint, information, or indictment was filed against the petitioner that allowed the prosecution to proceed under a theory of felony murder or murder under the natural and

probable consequences doctrine;

The person was convicted of first- or second-degree murder following a trial, or accepted a plea bargain in which he or she could be convicted of first- or second-degree murder; and

The person could not be convicted of first- or second-degree murder under the provisions of SB 1437.

The law does not apply to crimes where the victim was a peace officer who was killed in the course of duty, and the defendant knew, or reasonably should have known, that the victim was a peace officer engaged in the performance of duty.

### **Petitioning for resentencing**

Offenders who are in state prison, and believe they are eligible for relief under SB 1437, may petition their sentencing court for possible resentencing. There is no deadline for petitioning for relief, and offenders have the right to request counsel.

When petitioning the court for resentencing, the petitioner must make an initial showing to explain to the court why he or she is eligible. If the court agrees with that showing, the court will issue an order to show cause. Within 60 days, the court will hold a hearing to determine whether to vacate the murder conviction, recall the sentence and resentence the petitioner as if he or she had not been previously sentenced.

During the court review process, a prosecutor and the petitioner may rely on the record of conviction, and may offer new or additional evidence as proof. The parties may also waive a resentencing hearing and stipulate that the petitioner is eligible to have his or her conviction vacated and be resented, provided the new sentence is not greater than the original.

Resentencing is mandatory for people found eligible for relief. A person who is resented pursuant to the provisions of SB 1437 will be given credit for time served. In resentencing individuals, judges may impose a term of parole supervision for up to three years following completion of the new sentence.

An offender who has already completed his or her sentence, and is no longer incarcerated for felony murder, may also petition the sentencing court for relief under SB 1437.

### **How will inmates become aware of the law change?**

CDCR a process to educate inmates about the law change, including plans to:

Provide information in prison law libraries

- Post notices in housing units
- Notify Inmate Advisory Council representatives

All information will be provided in English and Spanish.