

ONE HUNDRED NINTH LEGISLATURE

SECOND SESSION

**LEGISLATIVE RESOLUTION 409**

Introduced by McKinney, 11.

PURPOSE: The purpose of this resolution is to conduct a study of the felony murder rule. Under the felony murder rule, an accused can be liable for murder if the killing is connected in any way with the attempt to commit a designated felony. It does not matter whether the accused or an accomplice causes the death. Nor does it matter whether the killing occurs accidentally and nonnegligently, rather it only matters that a defendant participated in the commission or committed the underlying felony that resulted in death.

In Nebraska, felony murder is first-degree murder and an accused person can be convicted if that person kills another person 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.

The study shall include, but need not be limited to, an examination of the following:

(1) The propriety of the felony murder rule and its classification as first-degree murder, including, but not limited to, whether the penalty for felony murder, which is life imprisonment, is proportionate and consistent with due process;

(2) The fairness and uniformity of prosecution for felony murder as regards identifiable communities;

(3) Whether prosecution of felony murder unfairly compels plea agreements or results in wrongful convictions;

(4) Whether reforms or modification to felony murder are warranted in Nebraska; and

(5) Legislative or judicial reforms in other states as regards their

felony murder laws.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE ONE HUNDRED NINTH LEGISLATURE OF NEBRASKA, SECOND SESSION:

1. That the Judiciary Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.
2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.