
By: Delegate Kach

Introduced and read first time: January 31, 1997

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Death Penalty - Aggravating Circumstances**

3 FOR the purpose of expanding the list of aggravating circumstances to be considered by
4 a court or jury in a death penalty case to include a murder that was committed by a
5 defendant who exhibited a callous disregard for human life and acted in a way in
6 which a rational person with ample time and adequate opportunity to reconsider
7 would have abandoned the act, by a defendant who had been convicted of stalking
8 the victim, by a defendant who previously had committed an offense of murder in
9 the first degree arising out of a different incident, by a defendant who committed
10 the murder while on parole for a term of imprisonment imposed for a previous
11 murder, or by a defendant who murdered their victims individually over a period of
12 time; and generally relating to the death penalty.

13 BY repealing and reenacting, with amendments,
14 Article 27 - Crimes and Punishments
15 Section 413(d)
16 Annotated Code of Maryland
17 (1996 Replacement Volume)

18 BY repealing and reenacting, without amendments,
19 Article 27 - Crimes and Punishments
20 Section 413(f), (g), and (h)
21 Annotated Code of Maryland
22 (1996 Replacement Volume)

23 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
24 MARYLAND, That the Laws of Maryland read as follows:

25 **Article 27 - Crimes and Punishments**

26 413.

27 (d) In determining the sentence, the court or jury, as the case may be, shall first
28 consider whether, beyond a reasonable doubt, any of the following aggravating
29 circumstances exist:

1 (1) The victim was a law enforcement officer who was murdered while in the
2 performance of his duties;

3 (2) The defendant committed the murder at a time when he was confined in
4 any correctional institution OR THE DEFENDANT COMMITTED THE MURDER WHILE
5 ON PAROLE FOR A TERM OF IMPRISONMENT IMPOSED FOR A PREVIOUS MURDER;

6 (3) The defendant committed the murder in furtherance of an escape or an
7 attempt to escape from or evade the lawful custody, arrest, or detention of or by an officer
8 or guard of a correctional institution or by a law enforcement officer;

9 (4) The victim was taken or attempted to be taken in the course of a
10 kidnapping or abduction or an attempt to kidnap or abduct;

11 (5) The victim was a child abducted in violation of § 2 of this article;

12 (6) The defendant committed the murder pursuant to an agreement or
13 contract for remuneration or the promise of remuneration to commit the murder;

14 (7) The defendant engaged or employed another person to commit the
15 murder and the murder was committed pursuant to an agreement or contract for
16 remuneration or the promise of remuneration;

17 (8) At the time of the murder, the defendant was under sentence of death or
18 imprisonment for life;

19 (9) The defendant committed more than one offense of murder in the first
20 degree arising out of the same incident; [or]

21 (10) The defendant committed the murder while committing or attempting to
22 commit a carjacking, armed carjacking, robbery, arson in the first degree, rape or sexual
23 offense in the first degree;

24 (11) THE DEFENDANT COMMITTED THE MURDER IN A MANNER THAT
25 EXHIBITED A CALLOUS DISREGARD FOR HUMAN LIFE AND IN A WAY IN WHICH A
26 RATIONAL PERSON WITH AMPLE TIME AND ADEQUATE OPPORTUNITY TO
27 RECONSIDER WOULD HAVE ABANDONED THE ACT;

28 (12) THE DEFENDANT HAD BEEN CONVICTED OF STALKING THE VICTIM;

29 (13) THE DEFENDANT PREVIOUSLY HAD COMMITTED AN OFFENSE OF
30 MURDER IN THE FIRST DEGREE ARISING OUT OF A DIFFERENT INCIDENT; OR

31 (14) THE DEFENDANT MURDERED THE VICTIMS INDIVIDUALLY OVER A
32 PERIOD OF TIME.

33 (f) If the court or jury does not find, beyond a reasonable doubt, that one or more
34 of these aggravating circumstances exist, it shall state that conclusion in writing, and a
35 sentence of death may not be imposed.

36 (g) If the court or jury finds, beyond a reasonable doubt, that one or more of
37 these aggravating circumstances exist, it shall then consider whether, based upon a
38 preponderance of the evidence, any of the following mitigating circumstances exist:

1 (1) The defendant has not previously (i) been found guilty of a crime of
2 violence; (ii) entered a plea of guilty or nolo contendere to a charge of a crime of
3 violence; or (iii) had a judgment of probation on stay of entry of judgment entered on a
4 charge of a crime of violence. As used in this paragraph, "crime of violence" means
5 abduction, arson in the first degree, escape, kidnapping, manslaughter, except involuntary
6 manslaughter, mayhem, murder, robbery, carjacking or armed carjacking, or rape or
7 sexual offense in the first or second degree, or an attempt to commit any of these
8 offenses, or the use of a handgun in the commission of a felony or another crime of
9 violence.

10 (2) The victim was a participant in the defendant's conduct or consented to
11 the act which caused the victim's death.

12 (3) The defendant acted under substantial duress, domination or
13 provocation of another person, but not so substantial as to constitute a complete defense
14 to the prosecution.

15 (4) The murder was committed while the capacity of the defendant to
16 appreciate the criminality of his conduct or to conform his conduct to the requirements of
17 law was substantially impaired as a result of mental incapacity, mental disorder or
18 emotional disturbance.

19 (5) The youthful age of the defendant at the time of the crime.

20 (6) The act of the defendant was not the sole proximate cause of the victim's
21 death.

22 (7) It is unlikely that the defendant will engage in further criminal activity
23 that would constitute a continuing threat to society.

24 (8) Any other facts which the jury or the court specifically sets forth in
25 writing that it finds as mitigating circumstances in the case.

26 (h) (1) If the court or jury finds that one or more of these mitigating
27 circumstances exist, it shall determine whether, by a preponderance of the evidence, the
28 aggravating circumstances outweigh the mitigating circumstances.

29 (2) If it finds that the aggravating circumstances outweigh the mitigating
30 circumstances, the sentence shall be death.

31 (3) If it finds that the aggravating circumstances do not outweigh the
32 mitigating circumstances, a sentence of death may not be imposed.

33 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
34 October 1, 1997.