
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 - Callous Disregard for Life**

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 in a
5 manner that exhibited a callous disregard for human life and in a way in which a
6 rational person would have had ample time and adequate opportunity to reconsider
7 and abandon the act; and generally relating to the death penalty.

8 BY repealing and reenacting, with amendments,
9 Article 27 - Crimes and Punishments
10 Section 413(d)
11 Annotated Code of Maryland
12 (1996 Replacement Volume)

13 BY repealing and reenacting, without amendments,
14 Article 27 - Crimes and Punishments
15 Section 413(f), (g), and (h)
16 Annotated Code of Maryland
17 (1996 Replacement Volume)

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

20 **Article 27 - Crimes and Punishments**

21 413.

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

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

27 (2) The defendant committed the murder at a time when he was confined in
28 any correctional institution;

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

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

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

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

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

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

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

16 (10) The defendant committed the murder while committing or attempting to
17 commit a carjacking, armed carjacking, robbery, arson in the first degree, rape or sexual
18 offense in the first degree; OR

19 (11) THE DEFENDANT COMMITTED THE MURDER IN A MANNER:

20 (I) THAT EXHIBITED A CALLOUS DISREGARD FOR HUMAN LIFE;
21 AND

22 (II) 1. IN WHICH A RATIONAL PERSON WITH AMPLE TIME TO
23 RECONSIDER AND WOULD HAVE ABANDONED THE ACT; AND

24 2. IN WHICH A RATIONAL PERSON WITH ADEQUATE
25 OPPORTUNITY TO RECONSIDER WOULD HAVE ABANDONED THE ACT.

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

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

32 (1) The defendant has not previously (i) been found guilty of a crime of
33 violence; (ii) entered a plea of guilty or nolo contendere to a charge of a crime of
34 violence; or (iii) had a judgment of probation on stay of entry of judgment entered on a
35 charge of a crime of violence. As used in this paragraph, "crime of violence" means
36 abduction, arson in the first degree, escape, kidnapping, manslaughter, except involuntary
37 manslaughter, mayhem, murder, robbery, carjacking or armed carjacking, or rape or
38 sexual offense in the first or second degree, or an attempt to commit any of these

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1 offenses, or the use of a handgun in the commission of a felony or another crime of
2 violence.

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

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

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

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

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

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

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

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

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

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

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