
By: Senators Ferguson and Colburn

Introduced and read first time: January 15, 1997

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Death Penalty - Minimum Age and Aggravating Circumstances**

3 FOR the purpose of lowering the minimum age of an individual who is subject to the
4 death penalty; expanding the list of aggravating circumstances to include a murder
5 that was committed in a cold-blooded and pitiless manner that exhibited utter
6 disregard for human life; and generally relating to the death penalty.

7 BY repealing and reenacting, with amendments,
8 Article 27 - Crimes and Punishments
9 Section 412(g) and 413(d)
10 Annotated Code of Maryland
11 (1996 Replacement Volume)

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

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

19 **Article 27 - Crimes and Punishments**

20 412.

21 (g) (1) If a person found guilty of murder in the first degree was, at the time the
22 murder was committed, less than [18] 16 years old or if the person establishes by a
23 preponderance of the evidence that the person was, at the time the murder was
24 committed, mentally retarded, the person shall be sentenced to imprisonment for life or
25 imprisonment for life without the possibility of parole and may not be sentenced to death.

26 (2) The sentence shall be imprisonment for life unless the State notified the
27 person in writing at least 30 days prior to trial that the State intended to seek a sentence
28 of imprisonment for life without the possibility of parole under this section or § 413 of this
29 article.

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1 413.

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

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

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

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

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

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

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

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

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

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

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

27 (11) THE DEFENDANT COMMITTED THE MURDER IN A COLD-BLOODED
28 AND PITILESS MANNER THAT EXHIBITED UTTER DISREGARD FOR HUMAN LIFE.

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

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

35 (1) The defendant has not previously (i) been found guilty of a crime of
36 violence; (ii) entered a plea of guilty or nolo contendere to a charge of a crime of
37 violence; or (iii) had a judgment of probation on stay of entry of judgment entered on a
38 charge of a crime of violence. As used in this paragraph, "crime of violence" means
39 abduction, arson in the first degree, escape, kidnapping, manslaughter, except involuntary

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1 manslaughter, mayhem, murder, robbery, carjacking or armed carjacking, or rape or
2 sexual offense in the first or second degree, or an attempt to commit any of these
3 offenses, or the use of a handgun in the commission of a felony or another crime of
4 violence.

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

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

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

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

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

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

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

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

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

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

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