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1998 Regular Session 8lr6021

By: Chairman, Judiciary Committee (Departmental - State Police, Dept. of) and Delegates Hutchins, Genn, Montague, O'Donnell, Bissett, Jacobs, Doory, M. Burns, Comeau, Petzold, Harkins, Hubbard, Malone, Owings, Preis, Rudolph, and DeCarlo

Introduced and read first time: February 13, 1998

Assigned to: Judiciary

A BILL ENTITLED

1	AN ACT concerning	

2	Homicide -	Penalties

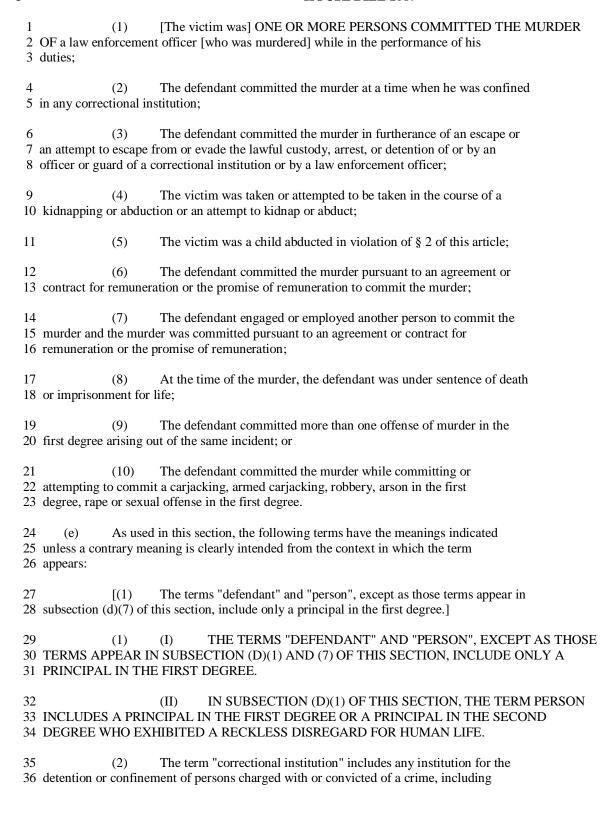
- 3 FOR the purpose of adding principals in the second degree to be explicitly eligible for
- 4 the death penalty in cases involving a defendant convicted of the first degree
- 5 murder of a law enforcement officer; adding principals in the second degree to be
- 6 explicitly eligible for the death penalty in cases involving a defendant convicted
- 7 of first degree murder involving murder for hire; and generally relating to
- 8 aggravating circumstances to be considered upon a finding of guilt of first
- 9 degree murder.
- 10 BY repealing and reenacting, with amendments,
- 11 Article 27 Crimes and Punishments
- 12 Section 413
- 13 Annotated Code of Maryland
- 14 (1996 Replacement Volume and 1997 Supplement)
- 15 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
- 16 MARYLAND, That the Laws of Maryland read as follows:

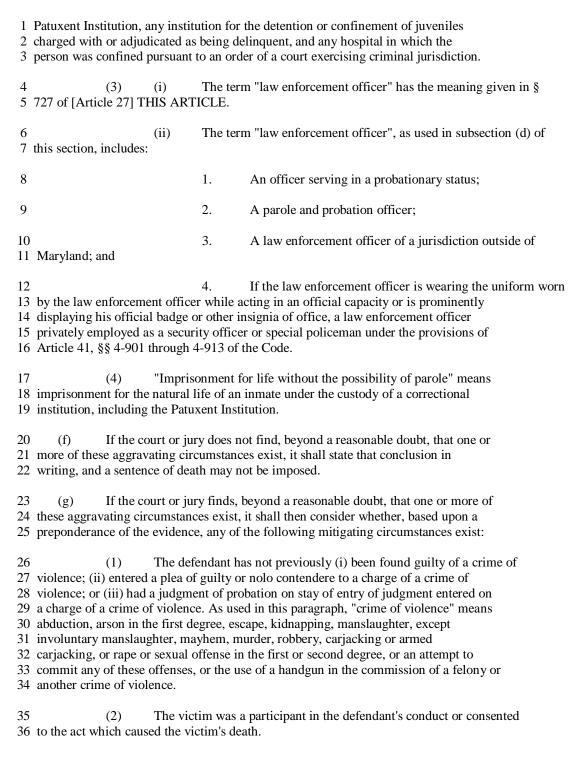
17 Article 27 - Crimes and Punishments

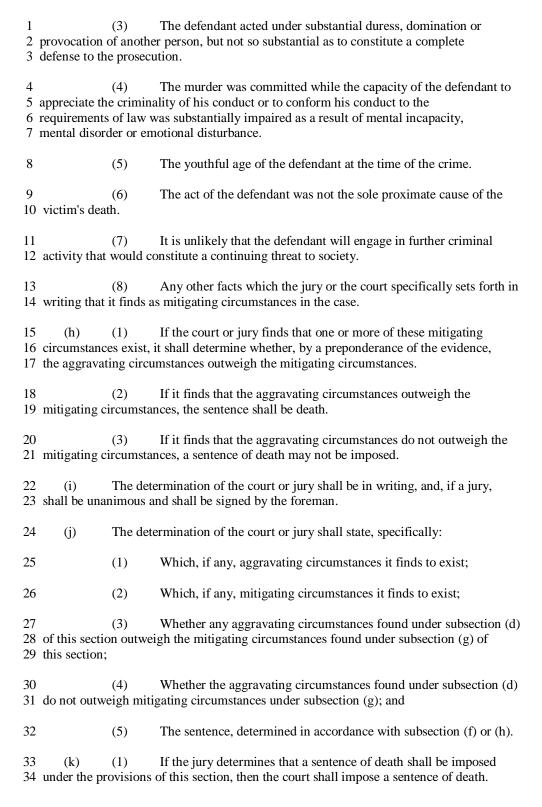
18 413.

- 19 (a) If a person is found guilty of murder in the first degree, and if the State
- 20 had given the notice required under § 412(b), a separate sentencing proceeding shall
- 21 be conducted as soon as practicable after the trial has been completed to determine
- 22 whether he shall be sentenced to death.
- 23 (b) This proceeding shall be conducted:
- 24 (1) Before the jury that determined the defendant's guilt; or
- 25 (2) Before a jury impaneled for the purpose of the proceeding if:

1		(i)	The defendant was convicted upon a plea of guilty;
2 3	sitting without a jury;	(ii)	The defendant was convicted after a trial before the court
4 5	discharged by the cou	(iii) rt for goo	The jury that determined the defendant's guilt has been od cause; or
6 7	jurisdiction has result	(iv) ed in a re	Review of the original sentence of death by a court of competent mand for resentencing; or
8 9	(3) the defendant.	Before to	he court alone, if a jury sentencing proceeding is waived by
10	(c) (1)	The follo	owing type of evidence is admissible in this proceeding:
11 12	subsection (g) of this	(i) section;	Evidence relating to any mitigating circumstance listed in
	subsection (d) of this to § 412(b) of this art		Evidence relating to any aggravating circumstance listed in of which the State had notified the defendant pursuant
			Evidence of any prior criminal convictions, pleas of guilty or e of such prior convictions or pleas, to the same extent procedures;
19 20	recommendation as to	(iv) o sentenc	Any presentence investigation report. However, any e contained in the report is not admissible; and
	relevant to sentence, any statements.	(v) provided	Any other evidence that the court deems of probative value and the defendant is accorded a fair opportunity to rebut
24 25	(2) or against the sentence		e and the defendant or his counsel may present argument for h.
28 29 30	instruct the jury as to sentence shall be dea imprisonment for life	appropriate the finding th, imprise, and the	esentation of the evidence in a proceeding before a jury, in ate instructions permitted by law, the court shall ngs it must make in order to determine whether the comment for life without the possibility of parole, or burden of proof applicable to these findings in or subsection (h) of this section.
			e sentence, the court or jury, as the case may be, shall a reasonable doubt, any of the following aggravating







	(2) If the jury, within a reasonable time, is not able to agree as to whether a sentence of death shall be imposed, the court may not impose a sentence of death.
	(3) If the sentencing proceeding is conducted before a court without a jury, the court shall determine whether a sentence of death shall be imposed under the provisions of this section.
9	(4) If the court or jury determines that a sentence of death may not be imposed, and the State did not give the notice required under § 412(b) of this article of intention to seek a sentence of life imprisonment without the possibility of parole, the court shall impose a sentence of life imprisonment.
13 14 15	(5) If the State gives the notice required under § 412(b) of this article of intention to seek a sentence of imprisonment for life without the possibility of parole but does not give notice of intention to seek the death penalty, the court shall conduct a separate sentencing proceeding as soon as practicable after the trial has been completed to determine whether to impose a sentence of imprisonment for life or imprisonment for life without the possibility of parole.
19 20 21	(6) If the State gives the notice required under § 412(b) of this article of intention to seek the death penalty in addition to the notice of intention to seek a sentence of imprisonment for life without the possibility of parole, and the court or jury determines that a sentence of death may not be imposed under the provisions of this section, that court or jury shall determine whether to impose a sentence of imprisonment for life or imprisonment for life without the possibility of parole.
	(7) (i) In determining whether to impose a sentence of imprisonment for life without the possibility of parole, a jury shall agree unanimously on the imposition of a sentence of imprisonment for life without the possibility of parole.
	(ii) If the jury agrees unanimously to impose a sentence of imprisonment for life without the possibility of parole, the court shall impose a sentence of imprisonment for life without the possibility of parole.
31	(iii) If the jury, within a reasonable time, is not able to agree unanimously on the imposition of a sentence of imprisonment for life without the possibility of parole, the court shall dismiss the jury and impose a sentence of imprisonment for life.
35 36 37	(8) If the State gives the notice required under § 412 of this article of the State's intention to seek a sentence of imprisonment for life without the possibility of parole, the court shall conduct a separate sentencing proceeding as soon as practicable after the trial has been completed to determine whether to impose a sentence of imprisonment for life or imprisonment for life without the possibility of parole.
39 40	(l) The Court of Appeals may adopt rules of procedure to govern the conduct of a sentencing proceeding conducted pursuant to this section, including any forms to be

- 1 used by the court or jury in making its written findings and determinations of 2 sentence. (m) A judge shall appoint at least 2 alternate jurors when impaneling a 4 jury for any proceeding: 5 In which the defendant is being tried for a crime for which the 6 death penalty may be imposed; or 7 Which is held under the provisions of this section. (ii) 8 (2) The alternate jurors shall be retained during the length of the proceedings under such restrictions and regulations as the judge may impose. 10 If any juror dies, becomes incapacitated, or disqualified, or is 11 discharged for any other reason before the jury begins its deliberations on sentencing, 12 an alternate juror becomes a juror in the order in which selected, and serves in all 13 respects as those selected on the regular trial panel. 14 An alternate juror may not replace a juror who is discharged (ii) 15 during the actual deliberations of the jury on the guilt or innocence of the defendant, 16 or on the issue of sentencing. SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be 17 18 construed only prospectively to apply to offenses that are committed after October 1, 19 1998, and may not be applied or interpreted to have any effect on or application to 20 offenses committed before October 1, 1998.
- 21 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take 22 effect October 1, 1998.