

---

By: **Senators Ferguson, Colburn, and Jimeno**  
Introduced and read first time: February 6, 1998  
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  
5 murder that was committed in a cold-blooded and pitiless manner that  
6 exhibited utter disregard for human life; and generally relating to the death  
7 penalty.

8 BY repealing and reenacting, with amendments,  
9 Article 27 - Crimes and Punishments  
10 Section 412(g) and 413(d)  
11 Annotated Code of Maryland  
12 (1996 Replacement Volume and 1997 Supplement)

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 and 1997 Supplement)

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**

21 412.

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

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

5 413.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

36 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
37 October 1, 1998.