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By: **Senators Ferguson, Colburn, and Jimeno** Introduced and read first time: February 6, 1998 Assigned to: Judicial Proceedings

Tissigned to: Vadicial Trocoddings

A BILL ENTITLED

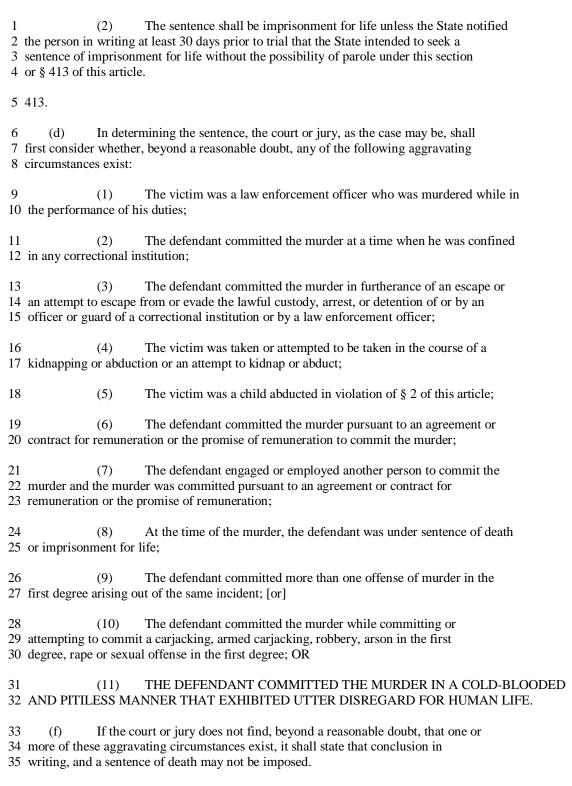
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2 Death Penalty - Minimum Age and Aggravating Circumstances

- 3 FOR the purpose of lowering the minimum age of an individual who is subject to the
- 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.
- (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.



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1 If the court or jury finds, beyond a reasonable doubt, that one or more of (g) 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 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, cariacking 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 The victim was a participant in the defendant's conduct or consented 14 to the act which caused the victim's death. 15 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 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 It is unlikely that the defendant will engage in further criminal 26 activity that would constitute a continuing threat to society. 27 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 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 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.