Unofficial Copy E2 1998 Regular Session 8lr0540

Dy Canatons Calbum Pakan Fangusan Haines Hagan Jimana

By: Senators Colburn, Baker, Ferguson, Haines, Hogan, Jimeno, Middlebrooks, and Stone

Introduced and read first time: February 6, 1998

Assigned to: Judicial Proceedings

A BILL ENTITLED

1	AN	ACT	concerning
-	'		00110011111115

2 Death Penalty - Aggravating Circumstances - Drug Trafficking

- 3 FOR the purpose of identifying murder in the first degree committed during the
- 4 commission of a violation of certain offenses relating to manufacturing,
- 5 distributing, or dispensing controlled dangerous substances as an aggravating
- 6 circumstance for a court or jury to consider in determining a sentence of death;
- 7 and generally relating to aggravating circumstances in determining criminal
- 8 sentencing.
- 9 BY repealing and reenacting, with amendments,
- 10 Article 27 Crimes and Punishments
- 11 Section 413
- 12 Annotated Code of Maryland
- 13 (1996 Replacement Volume and 1997 Supplement)

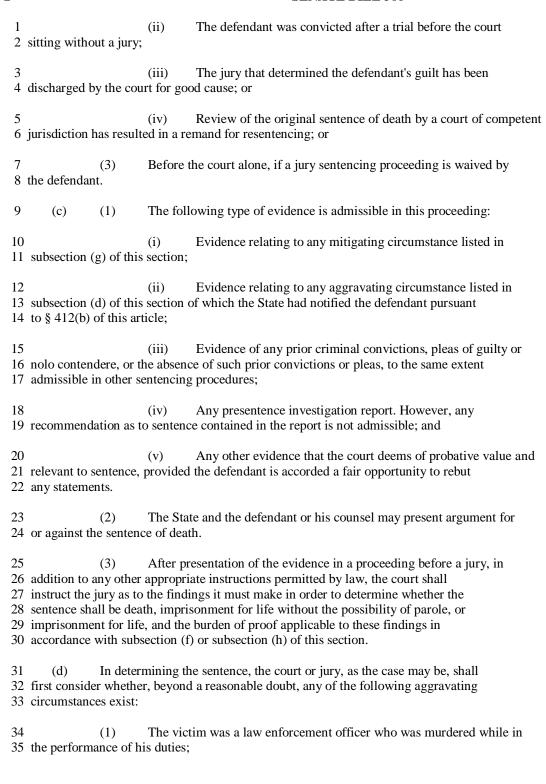
14 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF

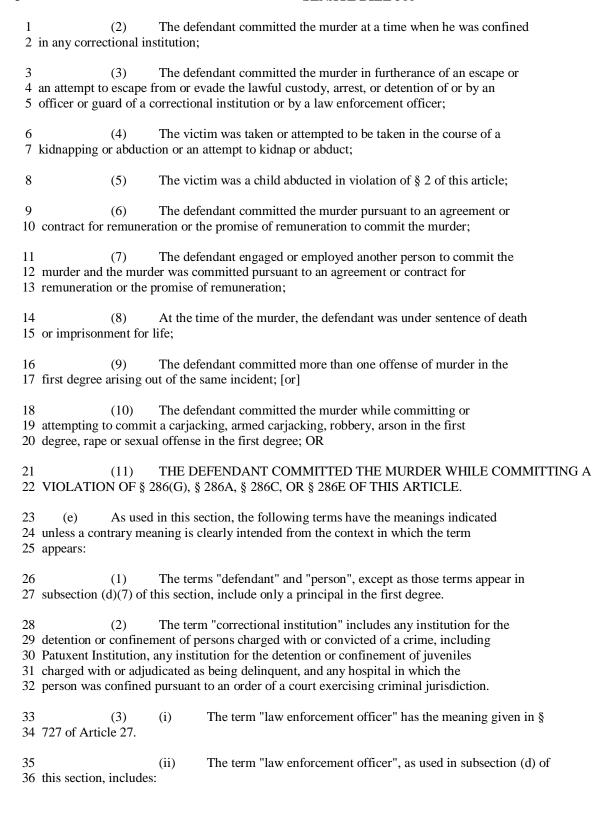
15 MARYLAND, That the Laws of Maryland read as follows:

16 Article 27 - Crimes and Punishments

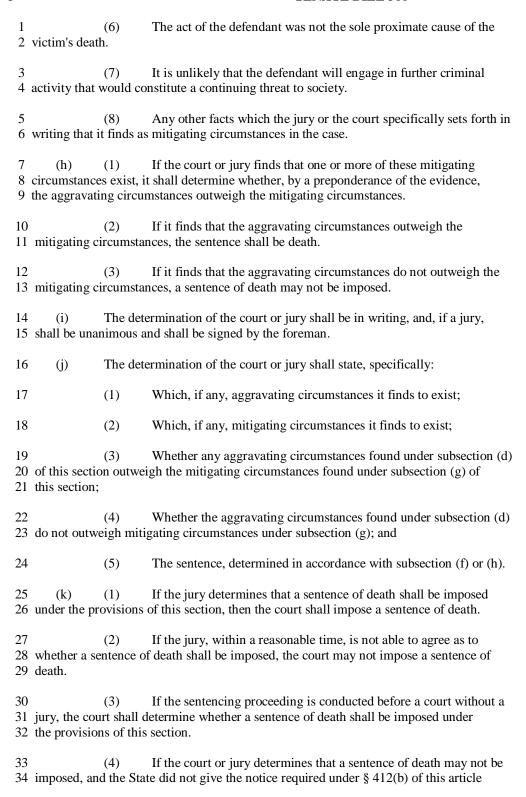
17 413.

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





1		1.	An officer serving in a probationary status;
2		2.	A parole and probation officer;
3	Maryland; and	3.	A law enforcement officer of a jurisdiction outside of
7 8	displaying his official badge or	other in y officer	If the law enforcement officer is wearing the uniform worn eting in an official capacity or is prominently signia of office, a law enforcement officer or special policeman under the provisions of the Code.
		ife of an	or life without the possibility of parole" means inmate under the custody of a correctional tution.
	. ,	umstanc	ot find, beyond a reasonable doubt, that one or es exist, it shall state that conclusion in ot be imposed.
	these aggravating circumstance	es exist,	beyond a reasonable doubt, that one or more of it shall then consider whether, based upon a the following mitigating circumstances exist:
21 22 23 24 25 26	violence; (ii) entered a plea of violence; or (iii) had a judgme a charge of a crime of violence abduction, arson in the first de involuntary manslaughter, ma carjacking, or rape or sexual of	guilty on nt of pro e. As use gree, esc yhem, m ffense in	as not previously (i) been found guilty of a crime of a nolo contendere to a charge of a crime of abation on stay of entry of judgment entered on a in this paragraph, "crime of violence" means cape, kidnapping, manslaughter, except urder, robbery, carjacking or armed the first or second degree, or an attempt to se of a handgun in the commission of a felony or
28 29	(2) The vict to the act which caused the vic		a participant in the defendant's conduct or consented ath.
	× /		cted under substantial duress, domination or so substantial as to constitute a complete
35	appreciate the criminality of h	is conduc antially i	committed while the capacity of the defendant to ct or to conform his conduct to the impaired as a result of mental incapacity, ce.
37	(5) The you	thful age	e of the defendant at the time of the crime.



	of intention to seek a sentence of life imprisonment without the possibility of parole, the court shall impose a sentence of life imprisonment.
5 6 7	(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.
11 12 13	(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.
23	(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.
27 28 29	(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.
33	(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 used by the court or jury in making its written findings and determinations of sentence.
35 36	(m) (1) A judge shall appoint at least 2 alternate jurors when impaneling a jury for any proceeding:
37 38	(i) In which the defendant is being tried for a crime for which the death penalty may be imposed; or
39	(ii) Which is held under the provisions of this section.

2	proceedings under such restrictions and regulations as the judge may impose.
5	(3) (i) If any juror dies, becomes incapacitated, or disqualified, or is discharged for any other reason before the jury begins its deliberations on sentencing, an alternate juror becomes a juror in the order in which selected, and serves in all respects as those selected on the regular trial panel.
	(ii) An alternate juror may not replace a juror who is discharged during the actual deliberations of the jury on the guilt or innocence of the defendant, or on the issue of sentencing.
10 11	SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 1998.