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2001 Regular Session 11r0290

By: Delegates Dembrow and Montague

Introduced and read first time: January 12, 2001

Assigned to: Judiciary

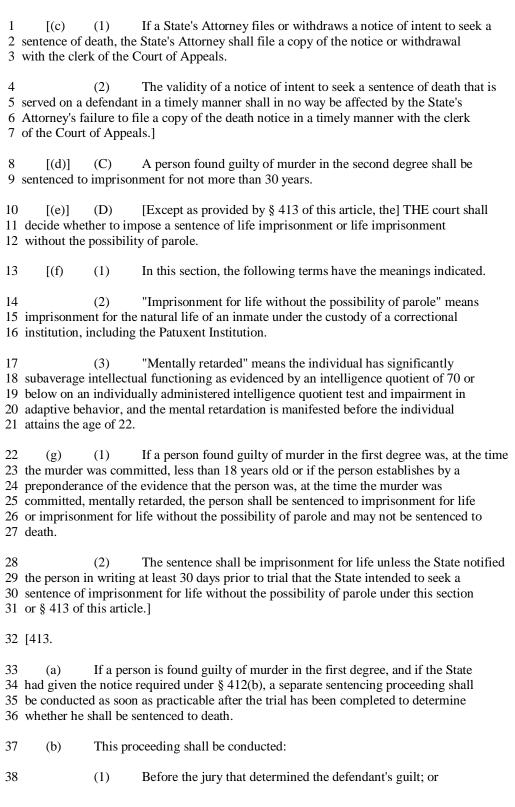
A BILL ENTITLED

1 AN ACT concerning

2 Crimes - Death Penalty - Abolition

- 3 FOR the purpose of repealing the death penalty; repealing procedures and
- 4 requirements related to the death penalty; providing that certain inmates who
- 5 have been sentenced to death may not be executed and shall be considered as
- 6 having received a sentence of life imprisonment without the possibility of parole
- 7 under certain circumstances; providing that in certain cases in which the State
- 8 has filed a notice to seek a sentence of death the notice shall be considered
- 9 withdrawn and it shall be considered a notice to seek a sentence of life
- imprisonment without the possibility of parole under certain circumstances;
- providing that certain persons serving certain life sentences are not eligible
- 12 persons for Patuxent Institution under certain circumstances; altering the
- circumstances concerning parole for persons serving life sentences when the
- 14 State sought a certain penalty; making conforming and clarifying changes; and
- generally relating to the abolition of the death penalty.
- 16 BY repealing and reenacting, with amendments,
- 17 Article 27 Crimes and Punishments
- 18 Section 412, 635, 645A, 645JA, and 645JC(e), (f), and (g)
- 19 Annotated Code of Maryland
- 20 (1996 Replacement Volume and 2000 Supplement)
- 21 BY repealing
- 22 Article 27 Crimes and Punishments
- 23 Section 413, 413A, 414, 627, 643B(g), 645JC(d), and 780A
- 24 Annotated Code of Maryland
- 25 (1996 Replacement Volume and 2000 Supplement)
- 26 BY repealing
- 27 Article Courts and Judicial Proceedings
- 28 Section 8-210(c)
- 29 Annotated Code of Maryland
- 30 (1998 Replacement Volume and 2000 Supplement)

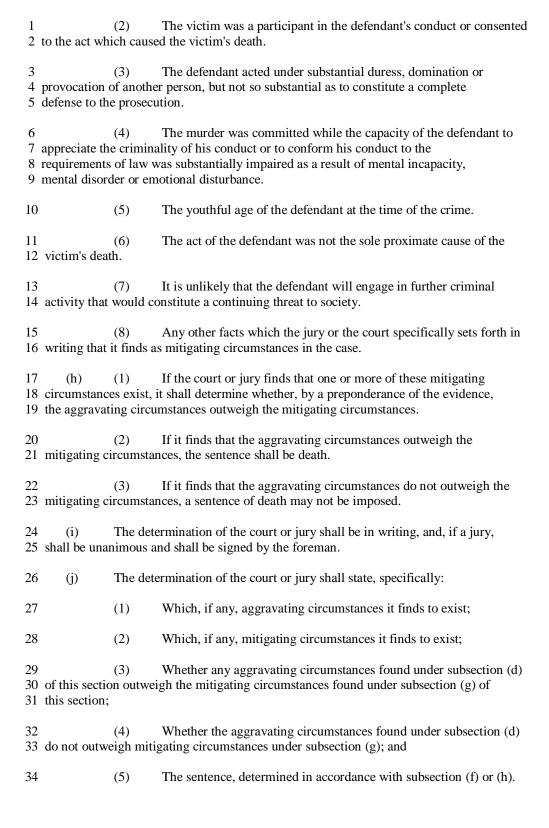
- 1 BY repealing and reenacting, with amendments,
- 2 Article Courts and Judicial Proceedings
- 3 Section 8-210(d), (e), and (f), 8-301, 9-204, and 12-307
- 4 Annotated Code of Maryland
- 5 (1998 Replacement Volume and 2000 Supplement)
- 6 BY repealing
- 7 Article Correctional Services
- 8 Section 3-901 through 3-909, inclusive, and the subtitle "Subtitle 9. Death
- 9 Penalty Procedures"
- 10 Annotated Code of Maryland
- 11 (1999 Volume and 2000 Supplement)
- 12 BY repealing and reenacting, with amendments,
- 13 Article Correctional Services
- 14 Section 4-101(e)(2), 4-305(b), 6-112(c), 7-301(d), and 7-601(a)
- 15 Annotated Code of Maryland
- 16 (1999 Volume and 2000 Supplement)
- 17 BY repealing and reenacting, with amendments,
- 18 Article Health General
- 19 Section 8-505(b), 12-104(b), 12-105(a), and 12-106(a)
- 20 Annotated Code of Maryland
- 21 (2000 Replacement Volume)
- 22 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
- 23 MARYLAND, That the Laws of Maryland read as follows:
- 24 Article 27 Crimes and Punishments
- 25 412.
- 26 (a) If a person is found guilty of murder, the court or jury that determined the
- 27 person's guilt shall state in the verdict whether the person is guilty of murder in the
- 28 first degree or murder in the second degree.
- 29 (b) [Except as provided under subsection (g) of this section, a] A person found
- 30 guilty of murder in the first degree shall be sentenced to [death,] imprisonment for
- 31 [life,] LIFE or imprisonment for life without the possibility of parole. The sentence
- 32 shall be imprisonment for life unless[: (1)(i) the State notified the person in writing at
- 33 least 30 days prior to trial that it intended to seek a sentence of death, and advised
- 34 the person of each aggravating circumstance upon which it intended to rely, and (ii) a
- 35 sentence of death is imposed in accordance with § 413; or (2)] the State notified the
- 36 person in writing at least 30 days prior to trial that it intended to seek a sentence of
- 37 imprisonment for life without the possibility of parole under [§ 412 or § 413 of this
- 38 article] THIS SECTION.

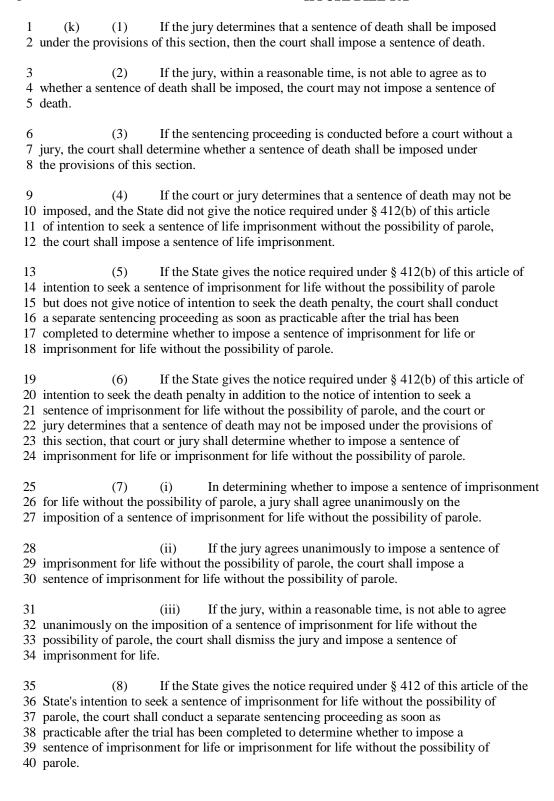


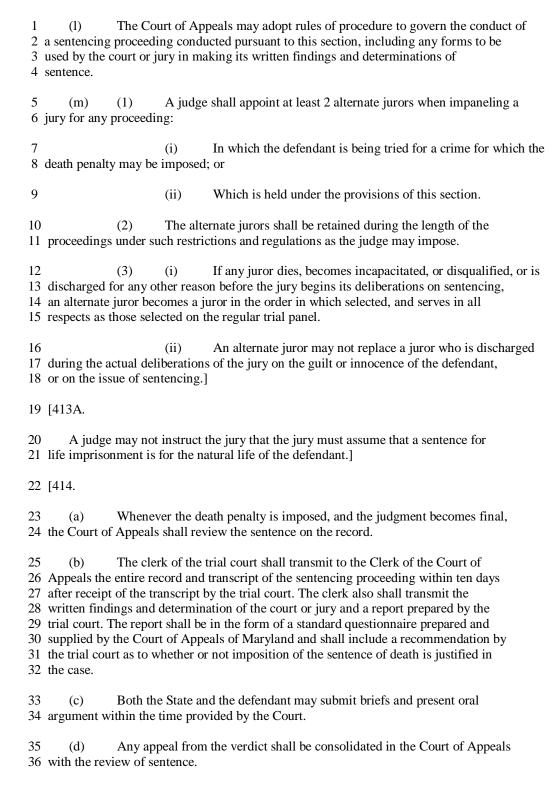
1	(2)	Before a	jury impaneled for the purpose of the proceeding if:			
2		(i)	The defendant was convicted upon a plea of guilty;			
3	sitting without a jury;	(ii)	The defendant was convicted after a trial before the court			
5 6	discharged by the cou	(iii) rt for goo	The jury that determined the defendant's guilt has been od cause; or			
7 8	jurisdiction has result	(iv) ed in a re	Review of the original sentence of death by a court of competent mand for resentencing; or			
9 10	(3) the defendant.	Before t	he court alone, if a jury sentencing proceeding is waived by			
11	(c) (1)	The follo	owing type of evidence is admissible in this proceeding:			
12 13	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			
	nolo contendere, or the admissible in other se		Evidence of any prior criminal convictions, pleas of guilty or see of such prior convictions or pleas, to the same extent procedures;			
20 21	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			
25 26	(2) or against the sentence		te and the defendant or his counsel may present argument for h.			
29 30 31	After presentation of the evidence in a proceeding before a jury, in addition to any other appropriate instructions permitted by law, the court shall instruct the jury as to the findings it must make in order to determine whether the sentence shall be death, imprisonment for life without the possibility of parole, or imprisonment for life, and the burden of proof applicable to these findings in accordance with subsection (f) or subsection (h) of this section.					
	3 (d) In determining the sentence, the court or jury, as the case may be, shall 4 first consider whether, beyond a reasonable doubt, any of the following aggravating 5 circumstances exist:					

1 2	(1) One or more persons committed the murder of a law enforcement officer while in the performance of his duties;
3	(2) The defendant committed the murder at a time when he was confined in any correctional institution;
	(3) The defendant committed the murder in furtherance of an escape or an attempt to escape from or evade the lawful custody, arrest, or detention of or by an officer or guard of a correctional institution or by a law enforcement officer;
8 9	(4) The victim was taken or attempted to be taken in the course of a kidnapping or abduction or an attempt to kidnap or abduct;
10	(5) The victim was a child abducted in violation of § 2 of this article;
11 12	(6) The defendant committed the murder pursuant to an agreement or contract for remuneration or the promise of remuneration to commit the murder;
	(7) The defendant engaged or employed another person to commit the murder and the murder was committed pursuant to an agreement or contract for remuneration or the promise of remuneration;
16 17	(8) At the time of the murder, the defendant was under sentence of death or imprisonment for life;
18 19	(9) The defendant committed more than one offense of murder in the first degree arising out of the same incident; or
	(10) The defendant committed the murder while committing or attempting to commit a carjacking, armed carjacking, robbery under § 486 or § 487 of this article, arson in the first degree, rape or sexual offense in the first degree.
	(e) As used in this section, the following terms have the meanings indicated unless a contrary meaning is clearly intended from the context in which the term appears:
	(1) (i) The terms "defendant" and "person", except as those terms appear in subsection (d)(1) and (7) of this section, include only a principal in the first degree.
29	(ii) In subsection (d)(1) of this section, the term "person" means:
30	1. A principal in the first degree; or
31	2. A principal in the second degree who:
32 33	A. Willfully, deliberately, and with premeditation intended the death of the law enforcement officer;
34	B. Was a major participant in the murder; and

1			C.	Was actually present at the time and place of the murder.				
4 5	Patuxent Institution, a charged with or adjud	nent of pe any institu licated as	rsons cha ation for t being de	tional institution" includes any institution for the urged with or convicted of a crime, including the detention or confinement of juveniles linquent, and any hospital in which the er of a court exercising criminal jurisdiction.				
7 8	(3) 727 of this article.	(i)	The term	n "law enforcement officer" has the meaning given in §				
9 10	this section, includes	(ii) :	The term	n "law enforcement officer", as used in subsection (d) of				
11			1.	An officer serving in a probationary status;				
12			2.	A parole and probation officer;				
13 14	Maryland; and		3.	A law enforcement officer of a jurisdiction outside of				
17 18	4. If the law enforcement officer is wearing the uniform worn by the law enforcement officer while acting in an official capacity or is prominently displaying his official badge or other insignia of office, a law enforcement officer privately employed as a security officer or special policeman under the provisions of Article 41, §§ 4-901 through 4-913 of the Code.							
	"Imprisonment for life without the possibility of parole" means imprisonment for the natural life of an inmate under the custody of a correctional institution, including the Patuxent Institution.							
	If the court or jury does not find, beyond a reasonable doubt, that one or more of these aggravating circumstances exist, it shall state that conclusion in writing, and a sentence of death may not be imposed.							
	(g) If the court or jury finds, beyond a reasonable doubt, that one or more of these aggravating circumstances exist, it shall then consider whether, based upon a preponderance of the evidence, any of the following mitigating circumstances exist:							
31 32 33 34 35 36	(1) The defendant has not previously (i) been found guilty of a crime of violence; (ii) entered a plea of guilty or nolo contendere to a charge of a crime of violence; or (iii) had a judgment of probation on stay of entry of judgment entered on a charge of a crime of violence. As used in this paragraph, "crime of violence" means abduction, arson in the first degree, escape in the first degree, kidnapping, manslaughter, except involuntary manslaughter, mayhem, murder, robbery under § 486 or § 487 of this article, carjacking or armed carjacking, or rape or sexual offense in the first or second degree, or an attempt to commit any of these offenses, or the use of a handgun in the commission of a felony or another crime of violence.							







1 In addition to the consideration of any errors properly before the Court on (e) 2 appeal, the Court of Appeals shall consider the imposition of the death sentence. With 3 regard to the sentence, the Court shall determine: Whether the sentence of death was imposed under the influence of 5 passion, prejudice, or any other arbitrary factor; Whether the evidence supports the jury's or court's finding of a 6 (2) statutory aggravating circumstance under § 413(d); and Whether the evidence supports the jury's or court's finding that the 8 aggravating circumstances outweigh the mitigating circumstances. 9 10 (f) In addition to its review pursuant to any direct appeal, with regard to the death sentence, the Court shall: 12 (1) Affirm the sentence; 13 Set aside the sentence and remand the case for the conduct of a new (2) 14 sentencing proceeding under § 413; or Set aside the sentence and remand for modification of the sentence to 15 (3) 16 imprisonment for life. The Court may adopt rules of procedure to provide for the expedited review 17 of all death sentences pursuant to this section.] 19 [627. 20 If any offender, on conviction, may be sentenced to suffer death, the court before 21 whom such offender shall be tried and convicted shall sentence him to suffer death by 22 the intravenous administration of a lethal quantity of an ultrashort-acting 23 barbiturate or other similar drug in combination with a chemical paralytic agent.] 24 635. No conviction or attainder shall work corruption of blood or forfeiture of estate; 25 26 the estate of such persons as shall destroy their own lives shall descend or vest as in 27 case of natural death; if any person be killed by casualty there shall be no forfeiture in 28 consequence thereof; and approver shall never be admitted in any case whatsoever[, 29 and a sentence of death shall not be executed in less than twenty days after 30 judgment]. 31 643B. 32 If a person is sentenced to death, the provisions of this section do not [(g)]33 apply.]

36

38 date of:

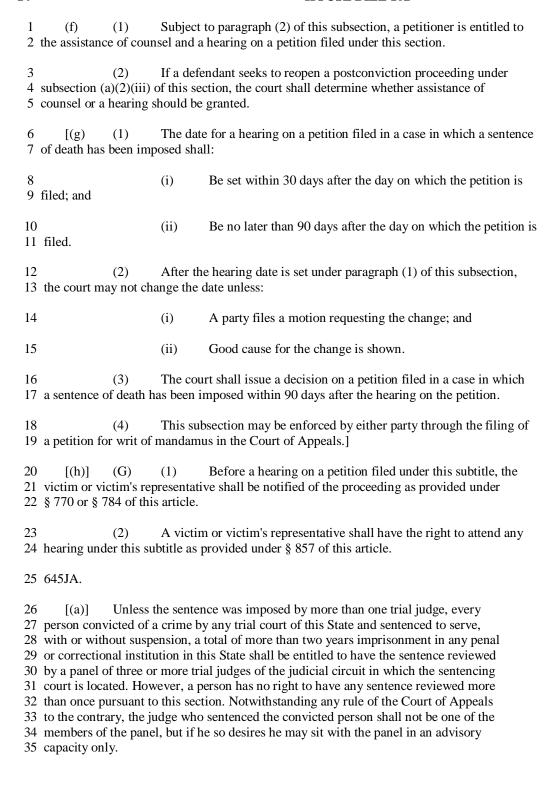
1 645A. 2 (1) Subject to the provisions of [paragraphs (2) and (3)] PARAGRAPH (2) (a) 3 of this subsection, any person convicted of a crime and either incarcerated under 4 sentence of [death or] imprisonment or on parole or probation, including any person 5 confined or on parole or probation as a result of a proceeding before the District Court 6 who claims that the sentence or judgment was imposed in violation of the 7 Constitution of the United States or the Constitution or laws of this State, or that the 8 court was without jurisdiction to impose the sentence, or that the sentence exceeds 9 the maximum authorized by law, or that the sentence is otherwise subject to collateral 10 attack upon any ground of alleged error which would otherwise be available under a 11 writ of habeas corpus, writ of coram nobis, or other common-law or statutory remedy, 12 may institute a proceeding under this subtitle in the circuit court for the county to set 13 aside or correct the sentence, provided the alleged error has not been previously and 14 finally litigated or waived in the proceedings resulting in the conviction, or in any 15 other proceeding that the petitioner has taken to secure relief from his conviction. 16 A person may file only one petition, arising out of each trial, for 17 relief under this subtitle. 18 Unless extraordinary cause is shown, [in a case in which a (ii) 19 sentence of death has not been imposed,] a petition under this subtitle may not be 20 filed later than 10 years from the imposition of sentence. 21 (iii) The court may in its discretion reopen a postconviction 22 proceeding that was previously concluded if the court determines that such action is 23 in the interests of justice. 24 Subject to the provisions of subparagraph (ii) of this paragraph, [(3)]25 in a case in which a sentence of death has been imposed, the circuit court may not 26 exercise jurisdiction over a proceeding under this subheading unless the petition is 27 filed within 210 days after the date of: 28 1. An order denying a petition for a writ of certiorari by the 29 Supreme Court of the United States; A decision affirming the death sentence by the Supreme 30 2. 31 Court of the United States; or 32 3. The expiration of the time for seeking review by the 33 Supreme Court of the United States if no review is sought. 34 The circuit court may extend the period within which the (ii) 35 petition shall be filed if good cause for the extension is shown.

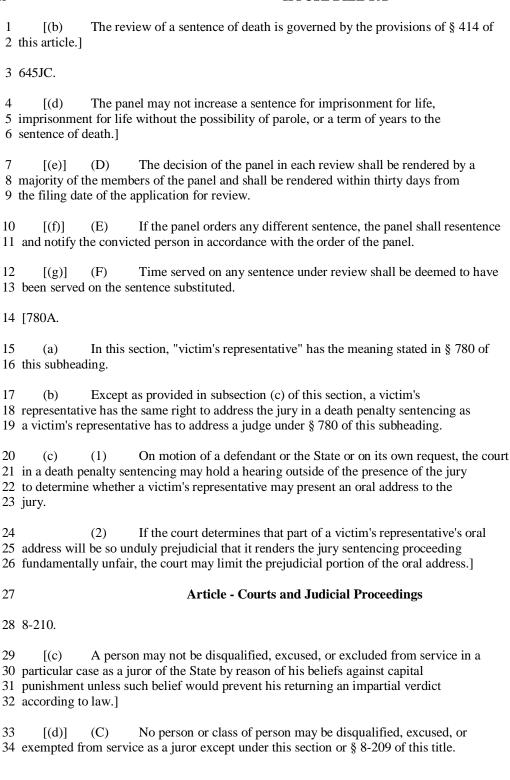
Notwithstanding any other provision of law and subject to paragraph

37 (5) of this subsection, a warrant of execution shall be stayed for 210 days after the

1 2	Supreme Court of the			r denying any petition for a writ of certiorari by the			
3 4	of the United States; o		A decision affirming the death sentence by the Supreme Court				
5 6	Court of the United St			iration of the time for seeking review by the Supreme s sought.			
9	imposed may waive th	e right to lay perio	file a pe	dant in a case in which a sentence of death has been tition under this subheading prior to the shed in paragraph (3) of this subsection			
11			1.	Knowing, voluntary, and intelligent; and			
12			2.	In writing.			
13 14				r under subparagraph (i) of this paragraph may be e scheduled date of execution by:			
15 16	subheading; or		1.	Filing a petition for postconviction relief under this			
17			2.	Withdrawing the waiver in writing.			
20	prior to the expiration	of the 2	10-day pe	r of the right to file a petition under this subheading eriod established in paragraph (3) of this conviction review process for the purposes of			
				ocation of a waiver under subparagraph (ii)1 of this conviction review process for the purposes of			
27 28	(v) The revocation of a waiver under subparagraph (ii)2 of this paragraph shall continue the State postconviction review process for the purposes of § 75 of this article until the filing of a petition for postconviction relief or the expiration of the 210-day period established in paragraph (3) of this subsection, whichever occurs first.]						
32 33 34 35							

- 1 (c) (1) For the purposes of this subtitle, an allegation of error shall be
 2 deemed to be waived when a petitioner could have made, but intelligently and
 3 knowingly failed to make, such allegation before trial, at trial, on direct appeal
 4 (whether or not the petitioner actually took such an appeal), in an application for
 5 leave to appeal a conviction based on a guilty plea, in any habeas corpus or coram
 6 nobis proceeding actually instituted by said petitioner, in a prior petition under this
 7 subtitle, or in any other proceeding actually instituted by said petitioner, unless the
 8 failure to make such allegation shall be excused because of special circumstances. The
 9 burden of proving the existence of such special circumstances shall be upon the
 10 petitioner.
- 11 (2) When an allegation of error could have been made by a petitioner 12 before trial, at trial, on direct appeal (whether or not said petitioner actually took 13 such an appeal), in an application for leave to appeal a conviction based on a guilty 14 plea, in any habeas corpus or coram nobis proceeding actually instituted by said 15 petitioner, in a prior petition under this subtitle, or in any other proceeding actually 16 instituted by said petitioner, but was not in fact so made, there shall be a rebuttable 17 presumption that said petitioner intelligently and knowingly failed to make such 18 allegation.
- 19 (d) For the purposes of this subtitle and notwithstanding any other provision
 20 hereof, no allegation of error shall be deemed to have been finally litigated or waived
 21 where, subsequent to any decision upon the merits thereof or subsequent to any
 22 proceeding in which said allegation otherwise may have been waived, any court
 23 whose decisions are binding upon the lower courts of this State holds that the
 24 Constitution of the United States or of Maryland imposes upon State criminal
 25 proceedings a procedural or substantive standard not theretofore recognized, which
 26 such standard is intended to be applied retrospectively and would thereby affect the
 27 validity of the petitioner's conviction or sentence.
- 28 The remedy herein provided is not a substitute for, nor does it affect any 29 remedies which are incident to the proceedings in the trial court or any remedy of 30 direct review of the sentence or conviction. [Except as provided in subsection (a)(3) of 31 this section, a] A petition for relief under this subtitle may be filed at any time, except that where an appeal has been taken from the judgment of conviction to the Court of Special Appeals, it shall not be necessary to appoint counsel or conduct a hearing or 34 take any action whatsoever on the petition, until the judgment of conviction becomes 35 final in the Court of Special Appeals. No appeals to the Court of Appeals or the Court 36 of Special Appeals in habeas corpus or coram nobis cases, or from other common-law or statutory remedies which have heretofore been available for challenging the validity of incarceration under sentence of [death or] imprisonment shall be permitted or entertained, except appeals in such cases pending in the Court of 40 Appeals on June 1, 1958, shall be processed in due course. Provided, however, that 41 nothing in this subtitle shall operate to bar an appeal to the Court of Special Appeals 42 (1) in a habeas corpus proceeding instituted under Article 41, § 2-210 of the Code or 43 (2) in any other proceeding in which a writ of habeas corpus is sought for any purpose 44 other than to challenge the legality of a conviction of a crime or sentence of [death or] 45 imprisonment therefor, including confinement as a result of a proceeding under Title 46 4 of the Correctional Services Article.





- 1 [(e)] (D) Any person excused from jury service or from a particular jury under
- 2 [subsection (a), (b), or (c)] SUBSECTION (A) OR SUBSECTION (B) of this section is
- 3 eligible to sit on another jury if the basis for his excuse is not relevant to his ability to
- 4 serve on the other jury.
- [(f)] (E) When a person is disqualified or excused from jury service, the jury
- 6 commissioner or clerk shall note the specific reason in the space provided on his juror
- 7 qualification form or on the juror's card drawn from the qualified jury wheel.
- 8 8-301.
- 9 [(a) In a trial in which the defendant is subject, on any single count, to a
- 10 sentence of death because notice of intention to seek a sentence of death has been
- 11 given under Article 27, § 412 of the Code, each defendant is permitted 20 peremptory
- 12 challenges and the State is permitted 10 peremptory challenges for each defendant.]
- 13 [(b)] (A) In a criminal trial in which the defendant is subject, on any single
- 14 count, to a sentence of life imprisonment, [including a case in which notice of
- 15 intention to seek a sentence of death has not been given under Article 27, § 412 of the
- 16 Code,] except for common law offenses for which no specific penalty is provided by
- 17 statute, each defendant is permitted 20 peremptory challenges and the State is
- 18 permitted 10 peremptory challenges for each defendant.
- 19 [(c)] (B) Except as provided in [subsections (a) and (b)] SUBSECTION (A) of
- 20 this section, in a criminal trial in which the defendant is subject, on any single count,
- 21 to a sentence of 20 years or more, except for common law offenses for which no specific
- 22 penalty is provided by statute, each defendant is permitted 10 peremptory challenges
- 23 and the State is permitted 5 peremptory challenges for each defendant.
- 24 [(d)] (C) In all other criminal cases, each party is permitted 4 peremptory
- 25 challenges.
- 26 [(e)] (D) The clerk of the court shall provide a sufficient number of prospective
- 27 jurors to allow the parties to exercise the peremptory challenges permitted by this
- 28 section or the Maryland Rules.
- 29 9-204.
- 30 [(a)] The court which issued an execution on a forfeited recognizance for a
- 31 witness who failed to appear may discharge the witness from execution upon motion
- 32 showing good and sufficient cause for the failure.
- 33 [(b) This section does not apply in a case if capital punishment may be
- 34 involved.1

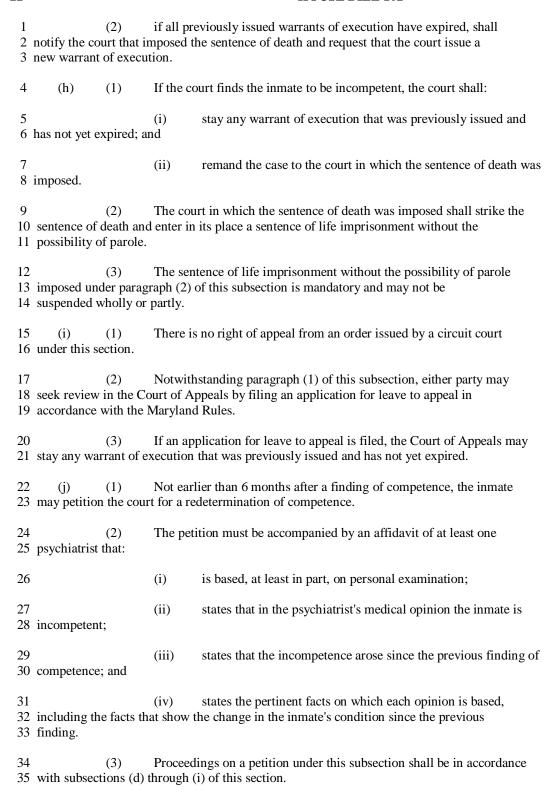
1	12-307.
2	The Court of Appeals has:
3	(1) Jurisdiction to review a case or proceeding pending in or decided by the Court of Special Appeals in accordance with Subtitle 2 of this title;
5 6	(2) Jurisdiction to review a case or proceeding decided by a circuit court, in accordance with § 12-305 of this subtitle; AND
7 8	(3) Exclusive appellate jurisdiction with respect to a question of law certified to it under the Uniform Certification of Questions of Law Act[; and
	(4) Exclusive appellate jurisdiction over a criminal case in which the death penalty is imposed and any appellate proceeding under § 3-904 of the Correctional Services Article].
12	Article - Correctional Services
13	[Subtitle 9. Death Penalty Procedures.]
14	[3-901.
	(a) Whenever an individual is sentenced to death, the judge of the court where the conviction takes place shall cause the individual to be taken into custody by the sheriff of the county in which the individual was indicted.
18	(b) (1) While the inmate is in the custody of the sheriff, the sheriff shall:
19 20	(i) hold the inmate under guard as the sheriff determines to be necessary; and
21 22	(ii) keep the inmate in solitary confinement in the same manner as is required when the inmate is in the custody of the Division.
23 24	(2) As soon as possible, the sheriff shall deliver the inmate to the Division to await the execution of the inmate's sentence.
27	(c) The expenses of the Division relating to the detention of an inmate under sentence of death, including the expenses of guarding, lodging, feeding, clothing, and caring for the inmate, may not be assessed against, billed to, or paid by the county in which the inmate was indicted.]
29	[3-902.
30	(a) (1) In this section the following words have the meanings indicated.
	(2) (i) "State postconviction review process" means the initial adjudication of a postconviction petition filed under Article 27, § 645A(a)(2)(i) of the Code, including any appellate review of the postconviction proceeding.

1		(ii)	"State postconviction review process" does not include:
2 3	Article 27, § 645A(a)	(2)(iii) of	1. a postconviction proceeding that has been reopened under the Code or any appellate review of the proceeding; or
4 5	before October 1, 199	95, or any	2. a postconviction proceeding on a second petition filed appellate review of the proceeding.
6 7	(3) sentence of death on t		t of execution" means a warrant for the execution of a dual against whom the sentence was imposed.
8	(b) (1)	A warrai	nt of execution shall:
9		(i)	state the conviction and sentence;
10 11	the sentence must be	(ii) executed:	designate a 5-day period, beginning on a Monday, within which and
12 13	day within the design	(iii) nated perio	command the Commissioner to carry out the death penalty on a od.
14 15	(2) than 4 weeks and not		od designated in a warrant of execution shall begin not less n 8 weeks after the warrant of execution is issued.
16 17			lividual is sentenced to death, the judge presiding in the xecution directed to the Commissioner.
18 19	(d) (1) the State postconvict		nt of execution is stayed during the direct review process and process.
22	the judge then presid	review pr ing in the	ginal warrant of execution has not expired at the end of the ocess, the judge who imposed the sentence of death or court in which the sentence was imposed shall lift the (1) of this subsection.
26		review pr ing in the	ginal warrant of execution has expired at the end of the ocess, the judge who imposed the sentence of death or court in which the sentence was imposed shall issue
28 29	(e) (1) inmate is pregnant, the		overnor is satisfied that a medical examination shows that an or shall revoke a warrant of execution for the inmate.
30 31	(2) pregnant, the Govern		as the Governor is satisfied that the inmate is no longer tly shall issue another warrant of execution.
32 33	(f) (1) cause.	The Gov	ernor may grant a stay of a warrant of execution for any
34	(2)	If the Go	overnor grants a stay under this subsection:

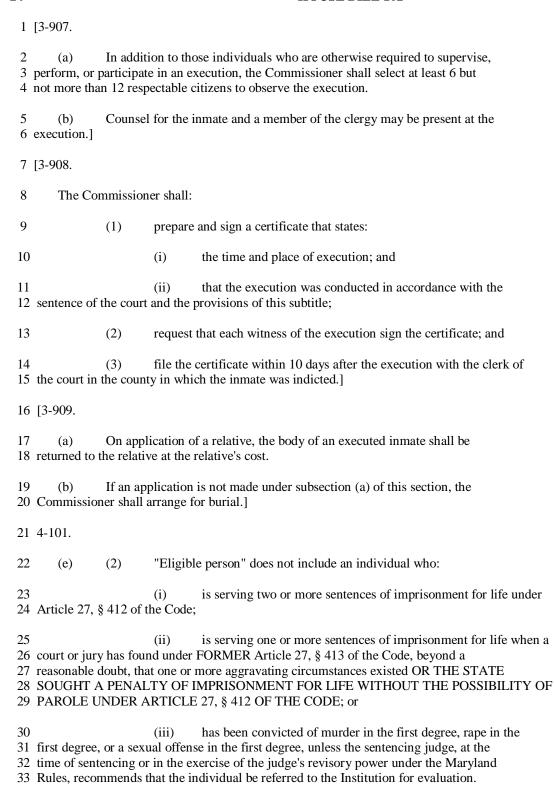
1 2	execution; and	(i)	the Governor shall issue an order revoking the warrant of
3 4	issues another warrar	(ii) nt of execu	the sentence of death may not be executed until the Governor ution.
5 6	(3) that revokes a warrar		vernor promptly shall notify the Commissioner of an order ation.
7 8	(g) (1) the warrant of execut		mmissioner shall set a time, within the period designated in the sentence of death shall be executed.
	(2) made except to those subtitle.]	-	ious announcement of the day or time of the execution may be invited or allowed to be present as provided in this
12	[3-903.		
13	(a) In this	section, "o	official" means:
14	(1)	the Com	nmissioner; or
15	(2)	the sher	iff of the county in which an inmate was indicted.
	death or a court imp	oses a stay	overnor grants a reprieve to an inmate under sentence of y on the execution of a sentence of death, the Governor he reprieve or stay on:
19		(i)	the inmate; and
20		(ii)	the official who has custody of the inmate.
21 22	(2) stay.	The offi	cial who has custody of the inmate shall obey the reprieve or
23 24			s granted a reprieve or stay shall remain in the custody of the under subsection (b)(1)(ii) of this section.
25 26	(d) (1) order regarding an in		ubsequent judicial proceeding, the court shall serve any court
27		(i)	the inmate; and
28		(ii)	the official who has custody of the inmate.
29 30	(2) subtitle shall apply to		rt resentences an inmate to death, the provisions of this sentence in the same manner as the original sentence.
	(3) the Commissioner, t guard as the Commi		If a new trial is granted to an inmate who is in the custody of shall be transported back to the place of trial under rects.

	to the place of Division.]	trial un		The expenses relating to the transportation of an inmate back aragraph (i) of this paragraph shall be paid by the
4	[3-904.			
5	(a) ((1)	In this se	ection the following words have the meanings indicated.
6 7		(2) sorder or		netent" means the state of mind of an inmate who, as a result retardation, lacks awareness:
8			(i)	of the fact of the inmate's impending execution; and
9			(ii)	that the inmate is to be executed for the crime of murder.
10 11	sentenced to o	(3) death.	"Inmate'	' means an individual who has been convicted of murder and
				incompetent under this section merely because the on continuing treatment, including the use of
15 16	(c) 5. become income		e may no	t execute a sentence of death against an inmate who has
17 18	` /			on that alleges that an inmate is incompetent and that seeks on against the inmate may be filed by:
19			(i)	the inmate;
20 21	or		(ii)	if the inmate is represented by counsel, counsel for the inmate;
22 23	the inmate's b	ehalf.	(iii)	if the inmate is not represented by counsel, any other person on
24 25	the inmate is	(2) confined		tion shall be filed in the circuit court of the county in which
26 27		(3) t was pro		iling of the petition, the court may stay any warrant of issued and has not yet expired.
28 29	psychiatrist th	(4) nat:	The peti	tion must be accompanied by an affidavit of at least one
30			(i)	is based, at least in part, on personal examination;
31 32	incompetent;	and	(ii)	states that in the psychiatrist's medical opinion the inmate is
33			(iii)	states the pertinent facts on which the opinion is based.

		ice of the State's Attorney that prosecuted the inmate, in accordance with the rice requirements of the Maryland Rules.					
	(6) Unless the inmate is already represented by counsel, the court promptly shall appoint the public defender or, if the public defender for good cause declines representation, other counsel to represent the inmate in the proceeding.						
	(7) Unless the State's Attorney stipulates to the inmate's incompetence, the State's Attorney shall cause the inmate to be examined and evaluated by one or more psychiatrists selected by the State's Attorney.						
10 11		(8) e indepen		mate's request is reasonable and timely made, an inmate is camined by a psychiatrist that the inmate selects.			
			of the cou	with the court's approval, the parties waive a hearing, the art shall designate a time for an evidentiary hearing to tence.			
15	(e)	(1)	A hearin	ng under this section shall be held without a jury:			
16			(i)	in court;			
17			(ii)	at the place where the inmate is confined; or			
18			(iii)	at another convenient place.			
19		(2)	At the h	earing, the inmate:			
20 21	condition, m	nay be pro	(i) esent;	subject to reasonable restrictions related to the inmate's			
22 23		nmate, ar	(ii) nd make a	through counsel, may offer evidence, cross-examine witnesses argument; and			
24 25	preponderar	nce of the	(iii) evidence	has the burden of establishing incompetence by a			
26	(f)	The cou	rt shall ei	nter an order that:			
27		(1)	declares	the inmate to be competent or incompetent; and			
28		(2)	states th	e findings on which the declaration is based.			
29	(g)	If the co	urt finds	the inmate to be competent, the court immediately:			
30 31	issued and h	(1) as not ye		any stay of a warrant of execution that was previously; or			

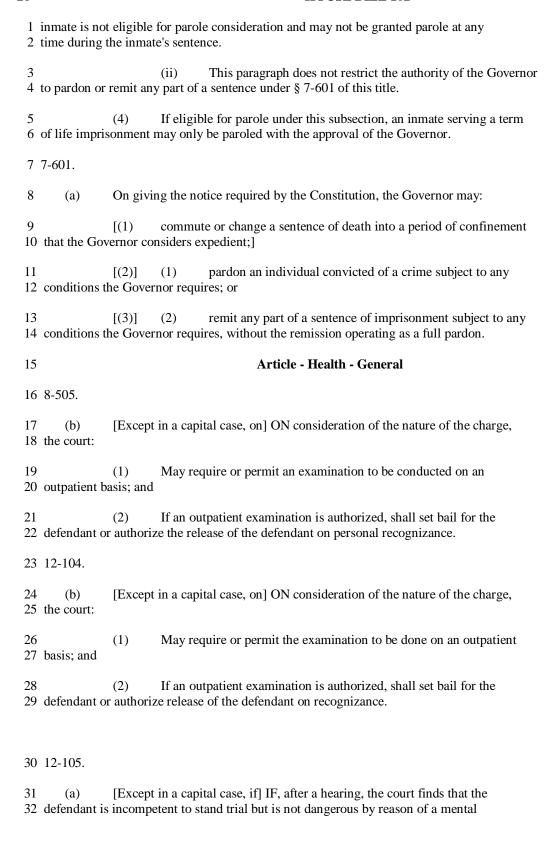


1	(k)	The Maryland Rules shall govern:
2		(1) the form of petitions and all other pleadings; and
		(2) except as otherwise provided in this section, the procedures to be he circuit court in determining competency or incompetency and by the eals in reviewing applications for leave to appeal.
		This section does not affect the power of the Governor to stay execution of death under § 3-902(f) of this subtitle or to commute a sentence of death 41, § 4-513 of the Code.]
9	[3-905.	
12	other similar	The manner of inflicting the punishment of death shall be the continuous administration of a lethal quantity of an ultrashort-acting barbiturate or drug in combination with a chemical paralytic agent until a licensed on ounces death according to accepted standards of medical practice.
14 15	(b) is not the pra	(1) The administration of the lethal substances required by this section actice of medicine.
		(2) Notwithstanding any other law, a pharmacist or pharmaceutical dispense drugs, without a prescription, to the Commissioner or the er's designee to carry out this section.]
19	[3-906.	
20	(a)	The Commissioner shall:
21 22	which an exc	(1) provide a suitable and efficient place, enclosed from public view, in ecution may be carried out;
23 24	execution; a	(2) provide all of the materials that are necessary to perform the
25 26	perform the	(3) subject to subsection (c) of this section, select the individuals to execution.
27 28	(b) execution.	The Commissioner or the Commissioner's designee shall supervise the
29 30	(c) the Commis	(1) An execution shall be performed by individuals who are selected by sioner and trained to administer the lethal injection.
		(2) An individual who administers the paralytic agent and lethal d not be licensed or certified as any type of health care practitioner under ccupations Article.]



1 4-305.			

- 2 (b) (1) Except as provided in paragraph (2) of this subsection, an inmate
- 3 sentenced to life imprisonment is not eligible for parole consideration until the inmate
- 4 has served 15 years or the equivalent of 15 years when considering allowances for
- 5 diminution of the inmate's period of confinement as provided under Title 3, Subtitle 7
- 6 of this article and Article 27, § 638C of the Code.
- 7 (2) An inmate sentenced to life imprisonment as a result of a proceeding
- 8 under FORMER Article 27, § 413 OF THE CODE OR IN A CASE UNDER ARTICLE 27, § 412
- 9 OF THE CODE IN WHICH THE STATE SOUGHT A PENALTY OF IMPRISONMENT FOR
- 10 LIFE WITHOUT THE POSSIBILITY OF PAROLE is not eligible for parole consideration
- 11 until the inmate has served 25 years or the equivalent of 25 years when considering
- 12 allowances for diminution of the inmate's period of confinement as provided under
- 13 Title 3, Subtitle 7 of this article and Article 27, § 638C of the Code.
- 14 (3) An eligible person who is serving a term of life imprisonment may be
- 15 paroled only with the Governor's approval.
- 16 6-112.
- 17 (c) The Division shall complete a presentence investigation report in
- 18 each case in which [the death penalty or] imprisonment for life without the
- 19 possibility of parole is requested under Article 27, § 412 of the Code.
- 20 (2) The report shall include a victim impact statement as provided under
- 21 Article 27, § 781 of the Code.
- 22 (3) The court [or jury before which the separate sentencing proceeding is
- 23 conducted under Article 27, § 412 or § 413 of the Code] shall consider the report.
- 24 7-301.
- 25 (d) (1) Except as provided in paragraphs (2) and (3) of this subsection, an
- 26 inmate who has been sentenced to life imprisonment is not eligible for parole
- 27 consideration until the inmate has served 15 years or the equivalent of 15 years
- 28 considering the allowances for diminution of the inmate's term of confinement under
- 29 Article 27, § 638C of the Code and Title 3, Subtitle 7 of this article.
- 30 (2) An inmate who has been sentenced to life imprisonment as a result of
- 31 a proceeding under FORMER Article 27, § 413 OF THE CODE OR IN A CASE UNDER
- 32 ARTICLE 27, § 412 OF THE CODE IN WHICH THE STATE SOUGHT A PENALTY OF
- 33 IMPRISONMENT FOR LIFE WITHOUT THE POSSIBILITY OF PAROLE is not eligible for
- 34 parole consideration until the inmate has served 25 years or the equivalent of 25
- 35 years considering the allowances for diminution of the inmate's term of confinement
- 36 under Article 27, § 638C of the Code and Title 3, Subtitle 7 of this article.
- 37 (3) (i) If an inmate has been sentenced to imprisonment for life
- 38 without the possibility of parole under Article 27, § 412 or § 413 of the Code, the



- 1 disorder or mental retardation, to self or the person or property of others, the court
- 2 may set bail for the defendant or authorize release of the defendant on recognizance.
- 3 12-106.
- 4 (a) Whether or not the defendant is confined, if the court considers that
- 5 resuming the criminal proceeding would be unjust because so much time has passed
- 6 since the defendant was found incompetent to stand trial, the court may dismiss the
- 7 charge. However, the court may not dismiss a charge:
- 8 (1) Without providing the State's Attorney and a victim who has filed a
- 9 notification request form under Article 27, § 770 of the Code advance notice and an
- 10 opportunity to be heard; and
- 11 (2) [(i) Until 10 years after the defendant was found incompetent to
- 12 stand trial in any capital case; or
- 13 (ii)] Until 5 years after the defendant was found incompetent to
- 14 stand trial in any [other] case where the penalty may be imprisonment in the State
- 15 penitentiary.
- 16 SECTION 2. AND BE IT FURTHER ENACTED, That an inmate who has been
- 17 sentenced to death before the effective date of this Act and who has not been executed
- 18 may not be executed and shall be considered as having received a sentence of life
- 19 imprisonment without the possibility of parole.
- 20 SECTION 3. AND BE IT FURTHER ENACTED, That in any case in which the
- 21 State has properly filed a notice that it intended to seek a sentence of death under
- 22 Article 27, § 412 of the Code in which a sentence has not been imposed, the notice of
- 23 intention to seek a sentence of death shall be considered withdrawn and it shall be
- 24 considered that the State properly filed notice under Article 27, § 412 of the Code to
- 25 seek a sentence of life imprisonment without the possibility of parole.
- 26 SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect
- 27 October 1, 2001.