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By: **Delegate O'Donnell**

Introduced and read first time: February 9, 2001

Assigned to: Judiciary

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A BILL ENTITLED

1 AN ACT concerning

2 **Sentencing - Death Penalty - Murder in Violation of Protective Order**

3 FOR the purpose of adding to the list of aggravating circumstances to the crime of  
4 murder in the first degree; providing that it is an aggravating circumstance if  
5 the victim was a certain person eligible for relief under an existing temporary ex  
6 parte order or a protective order, whom the defendant murdered in violation of  
7 the order; and generally relating to sentencing for first degree murder.

8 BY repealing and reenacting, with amendments,  
9 Article 27 - Crimes and Punishments  
10 Section 413(d) and (e)  
11 Annotated Code of Maryland  
12 (1996 Replacement Volume and 2000 Supplement)

13 BY repealing and reenacting, without amendments,  
14 Article 27 - Crimes and Punishments  
15 Section 413(f)  
16 Annotated Code of Maryland  
17 (1996 Replacement Volume and 2000 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**

21 413.

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

25 (1) One or more persons committed the murder of a law enforcement  
26 officer while in the performance of his duties;

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

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

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

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

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

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

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

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

18          (10)    The defendant committed the murder while committing or  
19 attempting to commit a carjacking, armed carjacking, robbery under § 486 or § 487 of  
20 this article, arson in the first degree, rape or sexual offense in the first degree; OR

21          (11)    THE VICTIM WAS A PERSON ELIGIBLE FOR RELIEF UNDER AN  
22 EXISTING TEMPORARY EX PARTE ORDER ENTERED UNDER § 4-505 OF THE FAMILY  
23 LAW ARTICLE OR AN EXISTING PROTECTIVE ORDER ISSUED UNDER § 4-506 OF THE  
24 FAMILY LAW ARTICLE, WHOM THE DEFENDANT MURDERED IN VIOLATION OF THE  
25 ORDER.

26   (e)     As used in this section, the following terms have the meanings indicated  
27 unless a contrary meaning is clearly intended from the context in which the term  
28 appears:

29           (1)    (i)     The terms "defendant" and "person", except as those terms  
30 appear in [subsection (d)(1) and (7)] SUBSECTION (D)(1), (7), AND (11) of this section,  
31 include only a principal in the first degree.

32                   (ii)    In subsection (d)(1) of this section, the term "person" means:

33                           1.     A principal in the first degree; or

34                           2.     A principal in the second degree who:

35                                 A.     Willfully, deliberately, and with premeditation intended  
36 the death of the law enforcement officer;

- 1                                   B.       Was a major participant in the murder; and  
2                                   C.       Was actually present at the time and place of the murder.

3                   (2)       The term "correctional institution" includes any institution for the  
4 detention or confinement of persons charged with or convicted of a crime, including  
5 Patuxent Institution, any institution for the detention or confinement of juveniles  
6 charged with or adjudicated as being delinquent, and any hospital in which the  
7 person was confined pursuant to an order of a court exercising criminal jurisdiction.

8                   (3)       (i)       The term "law enforcement officer" has the meaning given in §  
9 727 of this article.

10                               (ii)       The term "law enforcement officer", as used in subsection (d) of  
11 this section, includes:

- 12                                   1.       An officer serving in a probationary status;  
13                                   2.       A parole and probation officer;  
14                                   3.       A law enforcement officer of a jurisdiction outside of  
15 Maryland; and  
16                                   4.       If the law enforcement officer is wearing the uniform worn  
17 by the law enforcement officer while acting in an official capacity or is prominently  
18 displaying his official badge or other insignia of office, a law enforcement officer  
19 privately employed as a security officer or special policeman under the provisions of  
20 Article 41, §§ 4-901 through 4-913 of the Code.

21                   (4)       "Imprisonment for life without the possibility of parole" means  
22 imprisonment for the natural life of an inmate under the custody of a correctional  
23 institution, including the Patuxent Institution.

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

27       SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
28 October 1, 2001.