
By: **Delegates Montague, Gladden, Phillips, Marriott, Dembrow, Menes,
Grosfeld, and Vallario**

Introduced and read first time: February 8, 2002

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Death Sentence - Aggravating and Mitigating Circumstances - Comparison**

3 FOR the purpose of altering the standard used to compare aggravating and
4 mitigating circumstances in the sentencing proceeding of a capital case;
5 providing for the application of this Act; and generally relating to death sentence
6 proceedings.

7 BY repealing and reenacting, with amendments,
8 Article - Criminal Law
9 Section 2-303(i)
10 Annotated Code of Maryland
11 (As enacted by Chapter ____ (H.B. 11) of the Acts of the General Assembly of
12 2002)

13 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
14 MARYLAND, That the Laws of Maryland read as follows:

15 **Article - Criminal Law**

16 2-303.

17 (i) (1) If the court or jury finds that one or more of the mitigating
18 circumstances under subsection (h) of this section exists, it shall determine [by a
19 preponderance of the evidence] BEYOND A REASONABLE DOUBT whether the
20 aggravating circumstances under subsection (g) of this section outweigh the
21 mitigating circumstances.

22 (2) If the court or jury finds that the aggravating circumstances:

23 (i) outweigh the mitigating circumstances, a death sentence shall
24 be imposed; or

25 (ii) do not outweigh the mitigating circumstances, a death sentence
26 may not be imposed.

1 (3) If the determination is by a jury, a decision to impose a death
2 sentence must be unanimous and shall be signed by the jury foreperson.

3 (4) A court or jury shall put its determination in writing and shall state
4 specifically:

5 (i) each aggravating circumstance found;

6 (ii) each mitigating circumstance found;

7 (iii) whether any aggravating circumstances found under subsection
8 (g) of this section outweigh the mitigating circumstances found under subsection (h)
9 of this section;

10 (iv) whether the aggravating circumstances found under subsection
11 (g) of this section do not outweigh the mitigating circumstances found under
12 subsection (h) of this section; and

13 (v) the sentence determined under subsection (g)(2) of this section
14 or paragraphs (1) and (2) of this subsection.

15 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be
16 construed to apply retroactively and shall be applied to and interpreted to affect all
17 cases in which a sentence of death has been imposed but not executed as of the
18 effective date of this Act.

19 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
20 October 1, 2002.