
By: **Senators Frosh, Blount, Hollinger, Kelley, and McFadden**
Introduced and read first time: February 1, 2002
Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Death Penalty - Sentencing - Standard of Proof**

3 FOR the purpose of altering the standard of proof used in a certain phase of the
4 sentencing proceeding in a capital case trial; providing for the application of this
5 Act; and generally relating to the death sentencing proceedings.

6 BY repealing and reenacting, without amendments,
7 Article - Criminal Law
8 Section 2-303(f), (g), and (h)
9 Annotated Code of Maryland
10 (As enacted by Chapter ____ (H.B. 11) of the Acts of the General Assembly of
11 2002)

12 BY repealing and reenacting, with amendments,
13 Article - Criminal Law
14 Section 2-303(i)
15 Annotated Code of Maryland
16 (As enacted by Chapter ____ (H.B. 11) of the Acts of the General Assembly of
17 2002)

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

20 **Article - Criminal Law**

21 2-303.

22 (f) (1) After the evidence is presented to the jury in the sentencing
23 proceeding, the court shall:

24 (i) give any appropriate instructions allowed by law; and

25 (ii) instruct the jury as to:

- 1 (ii) each mitigating circumstance found;
- 2 (iii) whether any aggravating circumstances found under subsection
3 (g) of this section outweigh the mitigating circumstances found under subsection (h)
4 of this section;
- 5 (iv) whether the aggravating circumstances found under subsection
6 (g) of this section do not outweigh the mitigating circumstances found under
7 subsection (h) of this section; and
- 8 (v) the sentence determined under subsection (g)(2) of this section
9 or paragraphs (1) and (2) of this subsection.

10 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be
11 construed to apply retroactively and shall be applied to and interpreted to affect all
12 cases in which a sentence of death has been imposed but not carried out as of the
13 effective date of this Act.

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