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By: **Delegates Anderson, Cadden, Kelly, and McHale**  
Introduced and read first time: January 29, 2003  
Assigned to: Judiciary

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A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Law - Murder in the First Degree - Aggravating Circumstances -**  
3 **Child Victim**

4 FOR the purpose of removing the requirement that a child under a certain age be  
5 murdered in the commission of a certain crime for the murder to be considered  
6 by a jury to be an aggravating circumstance in determining whether to impose a  
7 sentence of death for murder in the first degree; and generally relating to  
8 aggravating circumstances in sentencing proceedings for murder in the first  
9 degree.

10 BY repealing and reenacting, with amendments,  
11 Article - Criminal Law  
12 Section 2-303(g)  
13 Annotated Code of Maryland  
14 (2002 Volume)

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

17 **Article - Criminal Law**

18 2-303.

19 (g) (1) In determining a sentence under subsection (b) of this section, the  
20 court or jury first shall consider whether any of the following aggravating  
21 circumstances exists beyond a reasonable doubt:

22 (i) one or more persons committed the murder of a law  
23 enforcement officer while the officer was performing the officer's duties;

24 (ii) the defendant committed the murder while confined in a  
25 correctional facility;

26 (iii) the defendant committed the murder in furtherance of an  
27 escape from, an attempt to escape from, or an attempt to evade lawful arrest, custody,  
28 or detention by:

- 1                                   1.       a guard or officer of a correctional facility; or
- 2                                   2.       a law enforcement officer;
- 3                                   (iv)     the victim was taken or attempted to be taken in the course of
- 4 an abduction, kidnapping, or an attempt to abduct or kidnap;
- 5                                   (v)     the victim was a child [abducted in violation of § 3-503(a)(1) of
- 6 this article] UNDER THE AGE OF 12 YEARS;
- 7                                   (vi)     the defendant committed the murder under an agreement or
- 8 contract for remuneration or promise of remuneration to commit the murder;
- 9                                   (vii)    the defendant employed or engaged another to commit the
- 10 murder and the murder was committed under an agreement or contract for
- 11 remuneration or promise of remuneration;
- 12                                   (viii)   the defendant committed the murder while under a sentence of
- 13 death or imprisonment for life;
- 14                                   (ix)     the defendant committed more than one murder in the first
- 15 degree arising out of the same incident; or
- 16                                   (x)     the defendant committed the murder while committing, or
- 17 attempting to commit:
  - 18                                   1.       arson in the first degree;
  - 19                                   2.       carjacking or armed carjacking;
  - 20                                   3.       rape in the first degree;
  - 21                                   4.       robbery under § 3-402 or § 3-403 of this article; or
  - 22                                   5.       sexual offense in the first degree.
- 23                                   (2)     If the court or jury does not find that one or more of the aggravating
- 24 circumstances exist beyond a reasonable doubt:
  - 25                                   (i)     it shall state that conclusion in writing; and
  - 26                                   (ii)    a death sentence may not be imposed.

27       SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
28 October 1, 2003.