
By: **Senators Hughes and Gladden**
Introduced and read first time: January 31, 2003
Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Law - Death Penalty - Felony Murder**

3 FOR the purpose of removing from consideration for the death penalty a conviction
4 for a certain murder in the first degree when the murder was committed in the
5 perpetration of or attempt to perpetrate certain felonies; making the sentence
6 for a conviction for murder in the first degree under such circumstances either
7 life without the possibility of parole or imprisonment for life; removing from the
8 list of aggravating circumstances which are considered in the sentencing
9 proceeding for a conviction for murder in the first degree certain circumstances
10 in which the murder was committed in the perpetration or attempt to perpetrate
11 certain felonies; making conforming changes; providing for the application of
12 this Act; and generally relating to removing death as a sentence for a conviction
13 for felony murder.

14 BY repealing and reenacting, with amendments,
15 Article - Criminal Law
16 Section 2-201, 2-202(a), and 2-303(g)(1)
17 Annotated Code of Maryland
18 (2002 Volume)

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

21 **Article - Criminal Law**

22 2-201.

- 23 (a) A murder is in the first degree if it is:
- 24 (1) a deliberate, premeditated, and willful killing;
 - 25 (2) committed by lying in wait;
 - 26 (3) committed by poison; or
 - 27 (4) committed in the perpetration of or an attempt to perpetrate:

- 1 (i) arson in the first degree;
- 2 (ii) burning a barn, stable, tobacco house, warehouse, or other
3 outbuilding that:
- 4 1. is not parcel to a dwelling; and
- 5 2. contains cattle, goods, wares, merchandise, horses, grain,
6 hay, or tobacco;
- 7 (iii) burglary in the first, second, or third degree;
- 8 (iv) carjacking or armed carjacking;
- 9 (v) escape in the first degree from a State correctional facility or a
10 local correctional facility;
- 11 (vi) kidnapping under § 3-502 or § 3-503(a)(2) of this article;
- 12 (vii) mayhem;
- 13 (viii) rape;
- 14 (ix) robbery under § 3-402 or § 3-403 of this article;
- 15 (x) sexual offense in the first or second degree;
- 16 (xi) sodomy; or
- 17 (xii) a violation of § 4-503 of this article concerning destructive
18 devices.

19 (b) (1) A person who commits a murder in the first degree UNDER
20 SUBSECTION (A)(1), (2), OR (3) OF THIS SECTION is guilty of a felony and on conviction
21 shall be sentenced to:

- 22 (i) death;
- 23 (ii) imprisonment for life without the possibility of parole; or
- 24 (iii) imprisonment for life.

25 (2) A PERSON WHO COMMITS A MURDER IN THE FIRST DEGREE UNDER
26 SUBSECTION (A)(4) OF THIS SECTION IS GUILTY OF A FELONY AND ON CONVICTION
27 SHALL BE SENTENCED TO:

- 28 (I) IMPRISONMENT FOR LIFE WITHOUT THE POSSIBILITY OF
29 PAROLE; OR
- 30 (II) IMPRISONMENT FOR LIFE.

1 (3) Unless a sentence of death is imposed in compliance with § 2-202 of
2 this subtitle and Subtitle 3 of this title, or a sentence of imprisonment for life without
3 the possibility of parole is imposed in compliance with § 2-203 of this subtitle and §
4 2-304 of this title, the sentence shall be imprisonment for life.

5 2-202.

6 (a) A defendant found guilty of murder in the first degree UNDER § 2-201(A)(1),
7 (2), OR (3) OF THIS SUBTITLE may be sentenced to death only if:

8 (1) at least 30 days before trial, the State gave written notice to the
9 defendant of:

10 (i) the State's intention to seek a sentence of death; and

11 (ii) each aggravating circumstance on which the State intends to
12 rely;

13 (2) (i) with respect to § 2-303(g) of this title, except for § 2-303(g)(1)(i)
14 and [(vii)] (V) of this title, the defendant was a principal in the first degree; or

15 (ii) with respect to § 2-303(g)(1)(i) of this title, a law enforcement
16 officer, as defined in § 2-303(a) of this title, was murdered and the defendant was:

17 1. a principal in the first degree; or

18 2. a principal in the second degree who:

19 A. willfully, deliberately, and with premeditation intended
20 the death of the law enforcement officer;

21 B. was a major participant in the murder; and

22 C. was actually present at the time and place of the murder;
23 and

24 (3) the sentence of death is imposed in accordance with § 2-303 of this
25 title.

26 2-303.

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

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

32 (ii) the defendant committed the murder while confined in a
33 correctional facility;

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

4 1. a guard or officer of a correctional facility; or

5 2. a law enforcement officer;

6 (iv) [the victim was taken or attempted to be taken in the course of
7 an abduction, kidnapping, or an attempt to abduct or kidnap;

8 (v) the victim was a child abducted in violation of § 3-503(a)(1) of
9 this article;

10 (vi)] the defendant committed the murder under an agreement or
11 contract for remuneration or promise of remuneration to commit the murder;

12 [(vii)] (V) the defendant employed or engaged another to commit the
13 murder and the murder was committed under an agreement or contract for
14 remuneration or promise of remuneration;

15 [(viii)] (VI) the defendant committed the murder while under a
16 sentence of death or imprisonment for life; OR

17 [(ix)] (VII) the defendant committed more than one murder in the
18 first degree arising out of the same incident[; or

19 (x) the defendant committed the murder while committing, or
20 attempting to commit:

21 1. arson in the first degree;

22 2. carjacking or armed carjacking;

23 3. rape in the first degree;

24 4. robbery under § 3-402 or § 3-403 of this article; or

25 5. sexual offense in the first degree].

26 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be
27 construed to apply only prospectively and may not be applied or interpreted to have
28 any effect on or application to the commission of a murder in the first degree
29 committed before the effective date of this Act.

30 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
31 October 1, 2003.