
By: **Delegates Hennessy, Amedori, Aumann, Bates, Bohanan, Boteler, Cluster, Costa, DeBoy, Elliott, Frank, Glassman, Impallaria, Jameson, Jennings, Kach, Kelly, Leopold, McComas, McDonough, McKee, McMillan, Miller, Mitchell, Myers, O'Donnell, Owings, Quinter, Shank, Sophocleus, Stocksedale, Stull, Trueschler, Vallario, Weldon, and Wood**

Introduced and read first time: January 23, 2004
Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Death Penalty - Aggravating Circumstances - Murder in Retaliation for**
3 **Testimony or with Intent to Prevent Testimony**

4 FOR the purpose of adding to the list of aggravating circumstances to be considered
5 for imposing the death penalty for the crime of murder in the first degree;
6 providing that it is an aggravating circumstance if the murder is of a person or
7 member of a person's immediate family in retaliation for testifying or with the
8 intent to prevent the person from testifying in a certain proceeding; and
9 generally relating to sentencing for murder in the first 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 and 2003 Supplement)

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;

1 (ii) the defendant committed the murder while confined in a
2 correctional facility;

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

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

7 2. a law enforcement officer;

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

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

12 (vi) the defendant committed the murder under an agreement or
13 contract for remuneration or promise of remuneration to commit the murder;

14 (vii) the defendant employed or engaged another to commit the
15 murder and the murder was committed under an agreement or contract for
16 remuneration or promise of remuneration;

17 (viii) the defendant committed the murder while under a sentence of
18 death or imprisonment for life;

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

21 (x) the defendant committed the murder while committing, or
22 attempting to commit:

23 1. arson in the first degree;

24 2. carjacking or armed carjacking;

25 3. rape in the first degree;

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

27 5. sexual offense in the first degree; OR

28 (XI) THE DEFENDANT COMMITTED THE MURDER OF A PERSON OR A
29 MEMBER OF THE PERSON'S IMMEDIATE FAMILY IN RETALIATION FOR TESTIFYING OR
30 WITH THE INTENT TO PREVENT THE PERSON FROM TESTIFYING IN A TRIAL,
31 HEARING, INVESTIGATION, OR OTHER OFFICIAL PROCEEDING HELD IN OR TO BE
32 CONDUCTED BY A FEDERAL OR STATE COURT.

33 (2) If the court or jury does not find that one or more of the aggravating
34 circumstances exist beyond a reasonable doubt:

1 (i) it shall state that conclusion in writing; and

2 (ii) a death sentence may not be imposed.

3 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take
4 effect October 1, 2004.