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2004 Regular Session 4lr1169

By: Delegates Quinter, Amedori, DeBoy, Malone, Pendergrass, Shank, Sophocleus, and F. Turner

Introduced and read first time: February 13, 2004

Assigned to: Judiciary

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### A BILL ENTITLED

1	AN	ACT	concerning
-	'		

/	Prosecutor	Protection	Act of	2004

- 3 FOR the purpose of adding the murder of a certain prosecutor to the list of
- 4 aggravating circumstances to be considered when determining whether a
- 5 defendant who is found guilty of murder in the first degree shall be sentenced to
- 6 death; defining a certain term; and generally relating to the murder of a
- 7 prosecutor and the aggravating circumstances considered in determining
- 8 whether a defendant is sentenced to death.
- 9 BY repealing and reenacting, with amendments,
- 10 Article Criminal Law
- 11 Section 2-202(a) and 2-303(a) and (g)
- 12 Annotated Code of Maryland
- 13 (2002 Volume and 2003 Supplement)
- 14 BY repealing and reenacting, without amendments,
- 15 Article Criminal Law
- 16 Section 2-303(b)
- 17 Annotated Code of Maryland
- 18 (2002 Volume and 2003 Supplement)
- 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 2-202.
- 23 (a) A defendant found guilty of murder in the first degree may be sentenced to
- 24 death only if:
- 25 (1) at least 30 days before trial, the State gave written notice to the
- 26 defendant of:

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1			(i)	the State	e's intention to seek a sentence of death; and	
2 3	rely;		(ii)	each agg	gravating circumstance on which the State intends to	
	[and (vii)], ('degree; or	(2) VII), AN	(i) D (XI) of		pect to § 2-303(g) of this title, except for § 2-303(g)(1)(i), the defendant was a principal in the first	
	enforcement murdered an			OSECUT	pect to § 2-303(g)(1)(i) AND (XI) of this title, a law OR, as defined in § 2-303(a) of this title, was	
10				1.	a principal in the first degree; or	
11				2.	a principal in the second degree who:	
12 13	the death of	the law e	enforcem	A. ent office	willfully, deliberately, and with premeditation intended or OR PROSECUTOR;	
14				B.	was a major participant in the murder; and	
15 16	and			C.	was actually present at the time and place of the murder;	
17 18	title.	(3)	the sent	ence of d	eath is imposed in accordance with § 2-303 of this	
19	2-303.					
20	(a)	(1)	In this s	ection the	e following words have the meanings indicated.	
21 22	article.	(2)	(i)	"Correct	tional facility" has the meaning stated in § 1-101 of this	
23			(ii)	"Correct	tional facility" includes:	
24 25	24 an institution for the confinement or detention of juveniles charged with or adjudicated as being delinquent; and					
26 27	a court exerc	cising cri	minal jur	2. risdiction.	a hospital in which a person is confined under an order of	
	defined undo Safety Artic		(i) w Enforc		forcement officer" means a law enforcement officer as ficers' Bill of Rights, § 3-101 of the Public	
31			(ii)	"Law en	forcement officer" includes:	
32 33	State;			1.	a law enforcement officer of a jurisdiction outside of the	

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1			2.	an officer serving in a probationary status;			
2			3.	a parole and probation officer; and			
5 6	Article if the law enfo	rcement	officer is	a law enforcement officer while privately employed as a under Title 3, Subtitle 3 of the Public Safety wearing the uniform worn while acting in an ently the officer's official badge or other			
	(4) ATTORNEY, A UNI ATTORNEY.			" MEANS A STATE'S ATTORNEY, AN ASSISTANT STATE'S TORNEY, OR AN ASSISTANT UNITED STATES			
13	1 (b) If the State gave notice under § 2-202(a)(1) of this title, a separate 2 sentencing proceeding shall be held as soon as practicable after a defendant is found 3 guilty of murder in the first degree to determine whether the defendant shall be 4 sentenced to death.						
	(g) (1) In determining a sentence under subsection (b) of this section, the court or jury first shall consider whether any of the following aggravating circumstances exists beyond a reasonable doubt:						
18 19	enforcement officer v	(i) while the		nore persons committed the murder of a law ras performing the officer's duties;			
20 21	correctional facility;	(ii)	the defe	ndant committed the murder while confined in a			
	escape from, an atten	(iii) npt to esc		ndant committed the murder in furtherance of an , or an attempt to evade lawful arrest, custody,			
25			1.	a guard or officer of a correctional facility; or			
26			2.	a law enforcement officer;			
27 28	an abduction, kidnap	(iv) ping, or a		m was taken or attempted to be taken in the course of to abduct or kidnap;			
29 30	this article;	(v)	the victi	m was a child abducted in violation of § 3-503(a)(1) of			
31 32	contract for remunera	(vi) ation or p		ndant committed the murder under an agreement or f remuneration to commit the murder;			
	murder and the murd remuneration or pron		mmitted	ndant employed or engaged another to commit the under an agreement or contract for on;			

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1 2	death or imprisonmer	(viii) nt for life;		ndant committed the murder while under a sentence of		
3	degree arising out of	(ix) the same		ndant committed more than one murder in the first [or]		
5 6	attempting to commit	(x)	the defe	ndant committed the murder while committing, or		
7			1.	arson in the first degree;		
8			2.	carjacking or armed carjacking;		
9			3.	rape in the first degree;		
10			4.	robbery under § 3-402 or § 3-403 of this article; or		
11			5.	sexual offense in the first degree; OR		
	2 (XI) ONE OR MORE PERSONS COMMITTED THE MURDER OF A 3 PROSECUTOR IN RETALIATION FOR OR WITH THE INTENT TO INTERFERE WITH THE 4 PERFORMANCE OF THE PROSECUTOR'S DUTIES.					
15 16	5 (2) If the court or jury does not find that one or more of the aggravating 6 circumstances exist beyond a reasonable doubt:					
17		(i)	it shall s	state that conclusion in writing; and		
18		(ii)	a death	sentence may not be imposed.		
19 20	SECTION 2. AN October 1, 2004.	ID BE IT	FURTH	ER ENACTED, That this Act shall take effect		