

# HOUSE BILL 1576

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By: **Delegates Serafini, Shank, Kelly, and Myers**

Rules suspended

Introduced and read first time: March 24, 2009

Assigned to: Rules and Executive Nominations

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## A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Law – Death Penalty – Evidence of Murder of Correctional Officer**

3 FOR the purpose of providing that the requirement that the State present certain  
4 evidence in the prosecution of a murder before the defendant may be sentenced  
5 to death does not apply in a case in which a correctional officer was murdered  
6 under certain circumstances; providing that the prohibition against sentencing  
7 a defendant to death if the State relies solely on eyewitness evidence does not  
8 apply in a case in which a correctional officer is murdered under certain  
9 circumstances; making this Act contingent on the taking effect of another Act;  
10 and generally relating to the death penalty.

11 BY repealing and reenacting, with amendments,  
12 Article – Criminal Law  
13 Section 2–202  
14 Annotated Code of Maryland  
15 (2002 Volume and 2008 Supplement)  
16 (As enacted by Chapter \_\_\_ (S.B. 279) of the Acts of the General Assembly of  
17 2009)

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 2–202.

22 (a) A defendant found guilty of murder in the first degree may be sentenced  
23 to death only if:

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

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

4 (ii) each aggravating circumstance on which the State intends  
5 to rely;

6 (2) (i) with respect to § 2-303(g) of this title, except for §  
7 2-303(g)(1)(i) and (vii) of this title, the defendant was a principal in the first degree; or

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

11 1. a principal in the first degree; or

12 2. a principal in the second degree who:

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

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

16 C. was actually present at the time and place of the  
17 murder;

18 (3) **EXCEPT IN A CASE IN WHICH A CORRECTIONAL OFFICER WAS**  
19 **MURDERED WHILE THE OFFICER WAS ON DUTY AND PERFORMING THE**  
20 **OFFICER'S DUTIES OR WHILE THE OFFICER WAS NOT ON DUTY IF THE MURDER**  
21 **WAS COMMITTED IN RETALIATION FOR THE OFFICER'S ACTIONS WHILE ON**  
22 **DUTY**, the State presents the court or jury with:

23 (i) biological evidence or DNA evidence that links the defendant  
24 to the act of murder;

25 (ii) a video taped, voluntary interrogation and confession of the  
26 defendant to the murder; or

27 (iii) a video recording that conclusively links the defendant to  
28 the murder; and

29 (4) the sentence of death is imposed in accordance with § 2-303 of  
30 this title.

31 (b) (1) In this subsection, a defendant is "mentally retarded" if:

1 (i) the defendant had significantly below average intellectual  
2 functioning, as shown by an intelligence quotient of 70 or below on an individually  
3 administered intelligence quotient test and an impairment in adaptive behavior; and

4 (ii) the mental retardation was manifested before the age of 22  
5 years.

6 (2) A defendant may not be sentenced to death, but shall be sentenced  
7 to imprisonment for life without the possibility of parole subject to the requirements of  
8 § 2-203(1) of this subtitle or imprisonment for life, if the defendant:

9 (i) was under the age of 18 years at the time of the murder; or

10 (ii) proves by a preponderance of the evidence that at the time of  
11 the murder the defendant was mentally retarded.

12 (c) **[A] EXCEPT IN A CASE IN WHICH A CORRECTIONAL OFFICER WAS**  
13 **MURDERED WHILE THE OFFICER WAS ON DUTY AND PERFORMING THE**  
14 **OFFICER'S DUTIES OR WHILE THE OFFICER WAS NOT ON DUTY IF THE MURDER**  
15 **WAS COMMITTED IN RETALIATION FOR THE OFFICER'S ACTIONS WHILE ON**  
16 **DUTY,** A defendant may not be sentenced to death, but shall be sentenced to  
17 imprisonment for life without the possibility of parole subject to the requirements of §  
18 2-203(1) of this subtitle or imprisonment for life, if the State relies solely on evidence  
19 provided by eyewitnesses.

20 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
21 October 1, 2009, contingent on the taking effect of Chapter \_\_\_\_ (S.B. 279) of the Acts  
22 of the General Assembly of 2009, and if Chapter \_\_\_\_ (S.B. 279) does not become  
23 effective, this Act shall be null and void without the necessity of further action by the  
24 General Assembly.