

HOUSE BILL 586

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2lr0844

By: **Delegates Bates, Afzali, Aumann, Burns, Elliott, Glass, Jameson, Kipke, Krebs, McComas, McDonough, Parrott, Schuh, Sophocleus, Stocksdales, and Wood**

Introduced and read first time: February 6, 2012

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Death Penalty – Evidentiary Requirements – Murder in the First Degree**
3 **Committed in a Correctional Facility**

4 FOR the purpose of establishing that the requirement that a defendant found guilty of
5 murder in the first degree may be sentenced to death only if the State presents
6 certain evidence does not apply if the defendant committed the murder while
7 confined in a correctional facility; and generally relating to the death penalty.

8 BY repealing and reenacting, with amendments,
9 Article – Criminal Law
10 Section 2–202
11 Annotated Code of Maryland
12 (2002 Volume and 2011 Supplement)

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

15 **Article – Criminal Law**

16 2–202.

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

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

21 (i) the State’s intention to seek a sentence of death; and

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (ii) each aggravating circumstance on which the State intends
2 to rely;

3 (2) (i) with respect to § 2–303(g) of this title, except for §
4 2–303(g)(1)(i) and (vii) of this title, the defendant was a principal in the first degree; or

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

8 1. a principal in the first degree; or

9 2. a principal in the second degree who:

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

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

13 C. was actually present at the time and place of the
14 murder;

15 (3) **EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION,**
16 the State presents the court or jury with:

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

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

21 (iii) a video recording that conclusively links the defendant to
22 the murder; and

23 (4) the sentence of death is imposed in accordance with § 2–303 of this
24 title.

25 (b) **THE REQUIREMENT IN SUBSECTION (A)(3) OF THIS SECTION DOES**
26 **NOT APPLY TO THE SENTENCING OF A DEFENDANT WHO IS CONVICTED OF**
27 **MURDER IN THE FIRST DEGREE IF THE DEFENDANT COMMITTED THE MURDER**
28 **WHILE CONFINED IN A CORRECTIONAL FACILITY.**

29 (c) (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)] (D)** A defendant may not be sentenced to death, but shall be sentenced
13 to imprisonment for life without the possibility of parole subject to the requirements of
14 § 2–203(1) of this subtitle or imprisonment for life, if the State relies solely on evidence
15 provided by eyewitnesses.

16 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
17 October 1, 2012.