

HOUSE BILL 757

E2

6lr2474

By: **Delegates Rosenberg, Dumais, and Vallario**

Introduced and read first time: February 8, 2016

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Law – Life Without the Possibility of Parole – First Degree Murder**

3 FOR the purpose of altering the circumstances under which a person who is found guilty of
4 murder in the first degree may be sentenced to life without the possibility of parole;
5 establishing certain procedures for trial and sentencing in relation to the imposition
6 of a sentence of life without the possibility of parole; authorizing the Court of Appeals
7 to adopt rules of procedure to govern the conduct of life without the possibility of
8 parole sentencing proceedings; establishing certain procedures for the review of a
9 sentence of life without the possibility of parole by the Court of Appeals; making
10 conforming changes; providing for the application of this Act; and generally relating
11 to sentences of life without the possibility of parole.

12 BY repealing and reenacting, with amendments,
13 Article – Criminal Law
14 Section 2–201 and 2–305
15 Annotated Code of Maryland
16 (2012 Replacement Volume and 2015 Supplement)

17 BY adding to
18 Article – Criminal Law
19 Section 2–202, 2–301, 2–303; and 2–401 to be under the new subtitle “Subtitle 4.
20 Review by Court of Appeals”
21 Annotated Code of Maryland
22 (2012 Replacement Volume and 2015 Supplement)

23 BY repealing
24 Article – Criminal Law
25 Section 2–203 and 2–304
26 Annotated Code of Maryland
27 (2012 Replacement Volume and 2015 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

Article – Criminal Law

2–201.

(a) A murder is in the first degree if it is:

(1) a deliberate, premeditated, and willful killing;

(2) committed by lying in wait;

(3) committed by poison; or

(4) committed in the perpetration of or an attempt to perpetrate:

(i) arson in the first degree;

(ii) burning a barn, stable, tobacco house, warehouse, or other
outbuilding that:

1. is not parcel to a dwelling; and

2. contains cattle, goods, wares, merchandise, horses, grain,
hay, or tobacco;

(iii) burglary in the first, second, or third degree;

(iv) carjacking or armed carjacking;

(v) escape in the first degree from a State correctional facility or a
local correctional facility;

(vi) kidnapping under § 3–502 or § 3–503(a)(2) of this article;

(vii) mayhem;

(viii) rape;

(ix) robbery under § 3–402 or § 3–403 of this article;

(x) sexual offense in the first or second degree;

(xi) sodomy; or

1 (xii) a violation of § 4-503 of this article concerning destructive
2 devices.

3 (b) (1) A person who commits a murder in the first degree is guilty of a felony
4 and on conviction shall be sentenced to:

5 (i) imprisonment for life without the possibility of parole; or

6 (ii) imprisonment for life.

7 (2) Unless a sentence of imprisonment for life without the possibility of
8 parole is imposed in compliance with [§ 2-203] § 2-202 of this subtitle and [§ 2-304] §
9 2-303 of this title, the sentence shall be imprisonment for life.

10 **2-202.**

11 (A) A DEFENDANT FOUND GUILTY OF MURDER IN THE FIRST DEGREE MAY
12 BE SENTENCED TO LIFE WITHOUT THE POSSIBILITY OF PAROLE ONLY IF:

13 (1) AT LEAST 30 DAYS BEFORE TRIAL, THE STATE GAVE WRITTEN
14 NOTICE TO THE DEFENDANT OF:

15 (I) THE STATE'S INTENTION TO SEEK A SENTENCE OF LIFE
16 WITHOUT THE POSSIBILITY OF PAROLE; AND

17 (II) EACH AGGRAVATING CIRCUMSTANCE ON WHICH THE STATE
18 INTENDS TO RELY;

19 (2) (I) WITH RESPECT TO § 2-303(G) OF THIS TITLE, EXCEPT FOR §
20 2-303(G)(1)(I) AND (VII) OF THIS TITLE, THE DEFENDANT WAS A PRINCIPAL IN THE
21 FIRST DEGREE; OR

22 (II) WITH RESPECT TO § 2-303(G)(1)(I) OF THIS TITLE, A LAW
23 ENFORCEMENT OFFICER, AS DEFINED IN § 2-303(A) OF THIS TITLE, WAS MURDERED
24 AND THE DEFENDANT WAS:

25 1. A PRINCIPAL IN THE FIRST DEGREE; OR

26 2. A PRINCIPAL IN THE SECOND DEGREE WHO:

27 A. WILLFULLY, DELIBERATELY, AND WITH
28 PREMEDITATION INTENDED THE DEATH OF THE LAW ENFORCEMENT OFFICER;

29 B. WAS A MAJOR PARTICIPANT IN THE MURDER; AND

1 C. WAS ACTUALLY PRESENT AT THE TIME AND PLACE OF
2 THE MURDER;

3 (3) THE STATE PRESENTS THE COURT OR JURY WITH:

4 (I) BIOLOGICAL EVIDENCE OR DNA EVIDENCE THAT LINKS
5 THE DEFENDANT TO THE ACT OF MURDER;

6 (II) A VIDEOTAPED, VOLUNTARY INTERROGATION AND
7 CONFESSION OF THE DEFENDANT TO THE MURDER; OR

8 (III) A VIDEO RECORDING THAT CONCLUSIVELY LINKS THE
9 DEFENDANT TO THE MURDER; AND

10 (4) THE SENTENCE OF LIFE WITHOUT THE POSSIBILITY OF PAROLE IS
11 IMPOSED IN ACCORDANCE WITH § 2-303 OF THIS TITLE.

12 (B) (1) IN THIS SUBSECTION, A DEFENDANT IS “INTELLECTUALLY
13 DISABLED” IF:

14 (I) THE DEFENDANT HAD SIGNIFICANTLY BELOW AVERAGE
15 INTELLECTUAL FUNCTIONING, AS SHOWN BY AN INTELLIGENCE QUOTIENT OF 70 OR
16 BELOW ON AN INDIVIDUALLY ADMINISTERED INTELLIGENCE QUOTIENT TEST AND
17 AN IMPAIRMENT IN ADAPTIVE BEHAVIOR; AND

18 (II) THE INTELLECTUAL DISABILITY WAS MANIFESTED BEFORE
19 THE AGE OF 22 YEARS.

20 (2) A DEFENDANT MAY NOT BE SENTENCED TO LIFE WITHOUT THE
21 POSSIBILITY OF PAROLE, BUT SHALL BE SENTENCED TO IMPRISONMENT FOR LIFE,
22 IF THE DEFENDANT:

23 (I) WAS UNDER THE AGE OF 18 YEARS AT THE TIME OF THE
24 MURDER; OR

25 (II) PROVES BY A PREPONDERANCE OF THE EVIDENCE THAT AT
26 THE TIME OF THE MURDER THE DEFENDANT WAS INTELLECTUALLY DISABLED.

27 (C) A DEFENDANT MAY NOT BE SENTENCED TO LIFE WITHOUT THE
28 POSSIBILITY OF PAROLE, BUT SHALL BE SENTENCED TO LIFE, IF THE STATE RELIES
29 SOLELY ON EVIDENCE PROVIDED BY EYEWITNESSES.

1 [2-203.

2 A defendant found guilty of murder in the first degree may be sentenced to
3 imprisonment for life without the possibility of parole only if:

4 (1) at least 30 days before trial, the State gave written notice to the
5 defendant of the State's intention to seek a sentence of imprisonment for life without the
6 possibility of parole; and

7 (2) the sentence of imprisonment for life without the possibility of parole is
8 imposed in accordance with § 2-304 of this title.]

9 **2-301.**

10 (A) THE STATE'S ATTORNEY SHALL FILE WITH THE CLERK OF THE COURT
11 OF APPEALS A COPY OF EACH:

12 (1) NOTICE OF INTENT TO SEEK A SENTENCE OF LIFE WITHOUT THE
13 POSSIBILITY OF PAROLE; AND

14 (2) WITHDRAWAL OF NOTICE OF INTENT TO SEEK A SENTENCE OF
15 LIFE WITHOUT THE POSSIBILITY OF PAROLE.

16 (B) THE FAILURE OF A STATE'S ATTORNEY TO GIVE TIMELY NOTICE TO THE
17 CLERK OF THE COURT OF APPEALS UNDER SUBSECTION (A)(1) OF THIS SECTION
18 DOES NOT AFFECT THE VALIDITY OF A NOTICE OF INTENT TO SEEK A SENTENCE OF
19 LIFE WITHOUT THE POSSIBILITY OF PAROLE THAT IS SERVED ON THE DEFENDANT
20 IN A TIMELY MANNER.

21 **2-303.**

22 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
23 INDICATED.

24 (2) "CORRECTIONAL FACILITY" INCLUDES:

25 (I) AN INSTITUTION FOR THE CONFINEMENT OR DETENTION OF
26 JUVENILES CHARGED WITH OR ADJUDICATED AS BEING DELINQUENT; AND

27 (II) A HOSPITAL IN WHICH A PERSON IS CONFINED UNDER AN
28 ORDER OF A COURT EXERCISING CRIMINAL JURISDICTION.

29 (3) (I) "LAW ENFORCEMENT OFFICER" HAS THE MEANING STATED
30 IN § 3-101 OF THE PUBLIC SAFETY ARTICLE.

(II) "LAW ENFORCEMENT OFFICER" INCLUDES:

- 1. A LAW ENFORCEMENT OFFICER OF A JURISDICTION OUTSIDE THE STATE;**
- 2. AN OFFICER SERVING IN A PROBATIONARY STATUS;**
- 3. A PAROLE AND PROBATION AGENT; AND**
- 4. A LAW ENFORCEMENT OFFICER WHILE PRIVATELY EMPLOYED AS A SECURITY OFFICER OR SPECIAL POLICE OFFICER UNDER TITLE 3, SUBTITLE 3 OF THE PUBLIC SAFETY ARTICLE IF THE LAW ENFORCEMENT OFFICER IS WEARING THE UNIFORM WORN WHILE ACTING IN AN OFFICIAL CAPACITY OR IS DISPLAYING PROMINENTLY THE OFFICER'S OFFICIAL BADGE OR OTHER INSIGNIA OF OFFICE.**

(B) IF THE STATE GAVE NOTICE UNDER § 2-202(A)(1) OF THIS TITLE, A SEPARATE SENTENCING PROCEEDING SHALL BE HELD AS SOON AS PRACTICABLE AFTER A DEFENDANT IS FOUND GUILTY OF MURDER IN THE FIRST DEGREE TO DETERMINE WHETHER THE DEFENDANT SHALL BE SENTENCED TO LIFE WITHOUT THE POSSIBILITY OF PAROLE.

(C) THE SENTENCING PROCEEDING UNDER SUBSECTION (B) OF THIS SECTION SHALL BE CONDUCTED:

- (1) BEFORE THE JURY THAT DETERMINED THE DEFENDANT'S GUILT;**
- (2) BEFORE A JURY IMPANELED FOR PURPOSES OF THE PROCEEDING**

IF:

(I) THE DEFENDANT WAS CONVICTED BASED ON A GUILTY PLEA;

(II) THE DEFENDANT WAS CONVICTED AFTER A TRIAL BY A COURT SITTING WITHOUT A JURY;

(III) THE COURT, FOR GOOD CAUSE, DISCHARGED THE JURY THAT CONVICTED THE DEFENDANT; OR

(IV) A COURT OF COMPETENT JURISDICTION REMANDED THE CASE FOR RESENTENCING FOLLOWING A REVIEW OF THE ORIGINAL SENTENCE OF LIFE WITHOUT THE POSSIBILITY OF PAROLE; OR

1 **(3) BEFORE THE COURT IF THE DEFENDANT WAIVES A JURY**
2 **SENTENCING PROCEEDING.**

3 **(D) (1) A JUDGE SHALL APPOINT AT LEAST TWO ALTERNATE JURORS**
4 **WHEN IMPANELING A JURY FOR ANY PROCEEDING:**

5 **(I) IN WHICH THE DEFENDANT IS BEING TRIED FOR A CRIME**
6 **FOR WHICH LIFE WITHOUT THE POSSIBILITY OF PAROLE MAY BE IMPOSED; OR**

7 **(II) THAT IS HELD UNDER THIS SECTION.**

8 **(2) THE ALTERNATE JURORS SHALL BE RETAINED THROUGHOUT THE**
9 **PROCEEDINGS UNDER ANY RESTRICTIONS THAT THE JUDGE IMPOSES.**

10 **(3) SUBJECT TO PARAGRAPH (4) OF THIS SUBSECTION, IF A JUROR**
11 **DIES, IS DISQUALIFIED, BECOMES INCAPACITATED, OR IS DISCHARGED FOR ANY**
12 **OTHER REASON BEFORE THE JURY BEGINS ITS DELIBERATIONS ON SENTENCING, AN**
13 **ALTERNATE JUROR BECOMES A JUROR IN THE ORDER SELECTED AND SERVES IN ALL**
14 **RESPECTS AS A JUROR SELECTED ON THE REGULAR TRIAL PANEL.**

15 **(4) AN ALTERNATE JUROR MAY NOT REPLACE A JUROR WHO IS**
16 **DISCHARGED DURING THE ACTUAL DELIBERATIONS OF THE JURY ON THE GUILT OR**
17 **INNOCENCE OF THE DEFENDANT OR ON SENTENCING.**

18 **(E) (1) THE FOLLOWING TYPE OF EVIDENCE IS ADMISSIBLE IN A**
19 **SENTENCING PROCEEDING:**

20 **(I) EVIDENCE RELATING TO A MITIGATING CIRCUMSTANCE**
21 **THAT IS LISTED UNDER SUBSECTION (H) OF THIS SECTION;**

22 **(II) EVIDENCE RELATING TO AN AGGRAVATING CIRCUMSTANCE:**

23 **1. THAT IS LISTED UNDER SUBSECTION (G) OF THIS**
24 **SECTION; AND**

25 **2. OF WHICH THE STATE PROVIDED NOTICE UNDER §**
26 **2-202(A)(1)(II) OF THIS TITLE;**

27 **(III) EVIDENCE OF A PRIOR CRIMINAL CONVICTION, GUILTY**
28 **PLEA, PLEA OF NOLO CONTENDERE, OR THE ABSENCE OF ANY PRIOR CONVICTIONS**
29 **OR PLEAS, TO THE SAME EXTENT THAT THE EVIDENCE WOULD BE ADMISSIBLE IN**
30 **OTHER SENTENCING PROCEDURES;**

1 (IV) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, ANY
2 PRESENTENCE INVESTIGATION REPORT; AND

3 (V) ANY OTHER EVIDENCE THE COURT FINDS TO HAVE
4 PROBATIVE VALUE AND RELEVANCE TO SENTENCING, IF THE DEFENDANT HAS A
5 FAIR OPPORTUNITY TO REBUT ANY STATEMENT.

6 (2) A RECOMMENDATION IN A PRESENTENCE INVESTIGATION
7 REPORT AS TO A SENTENCE IS NOT ADMISSIBLE IN A SENTENCING PROCEEDING.

8 (3) THE STATE AND THE DEFENDANT OR COUNSEL FOR THE
9 DEFENDANT MAY PRESENT ARGUMENT FOR OR AGAINST THE SENTENCE OF LIFE
10 WITHOUT THE POSSIBILITY OF PAROLE.

11 (F) AFTER THE EVIDENCE IS PRESENTED TO THE JURY IN THE SENTENCING
12 PROCEEDING, THE COURT SHALL:

13 (1) GIVE ANY APPROPRIATE INSTRUCTIONS ALLOWED BY LAW; AND

14 (2) INSTRUCT THE JURY AS TO:

15 (I) THE FINDINGS THAT THE JURY MUST MAKE TO DETERMINE
16 WHETHER THE DEFENDANT SHALL BE SENTENCED TO IMPRISONMENT FOR LIFE
17 WITHOUT THE POSSIBILITY OF PAROLE, OR IMPRISONMENT FOR LIFE; AND

18 (II) THE BURDEN OF PROOF APPLICABLE TO THE FINDINGS
19 UNDER SUBSECTION (G)(2) OR (I)(1) AND (2) OF THIS SECTION.

20 (G) (1) IN DETERMINING A SENTENCE UNDER SUBSECTION (B) OF THIS
21 SECTION, THE COURT OR JURY FIRST SHALL CONSIDER WHETHER ANY OF THE
22 FOLLOWING AGGRAVATING CIRCUMSTANCES EXISTS BEYOND A REASONABLE
23 DOUBT:

24 (I) ONE OR MORE PERSONS COMMITTED THE MURDER OF A
25 LAW ENFORCEMENT OFFICER WHILE THE OFFICER WAS PERFORMING THE
26 OFFICER'S DUTIES;

27 (II) THE DEFENDANT COMMITTED THE MURDER WHILE
28 CONFINED IN A CORRECTIONAL FACILITY;

1 (III) THE DEFENDANT COMMITTED THE MURDER IN
2 FURTHERANCE OF AN ESCAPE FROM, AN ATTEMPT TO ESCAPE FROM, OR AN
3 ATTEMPT TO EVADE LAWFUL ARREST, CUSTODY, OR DETENTION BY:

4 1. A GUARD OR AN OFFICER OF A CORRECTIONAL
5 FACILITY; OR

6 2. A LAW ENFORCEMENT OFFICER;

7 (IV) THE VICTIM WAS TAKEN OR WAS SUBJECTED TO AN
8 ATTEMPT TO BE TAKEN IN THE COURSE OF AN ABDUCTION, A KIDNAPPING, OR AN
9 ATTEMPT TO ABDUCT OR KIDNAP;

10 (V) THE VICTIM WAS A CHILD ABDUCTED IN VIOLATION OF §
11 3-503(A)(1) OF THIS ARTICLE;

12 (VI) THE DEFENDANT COMMITTED THE MURDER UNDER AN
13 AGREEMENT OR A CONTRACT FOR REMUNERATION OR PROMISE OF REMUNERATION
14 TO COMMIT THE MURDER;

15 (VII) THE DEFENDANT EMPLOYED OR ENGAGED ANOTHER TO
16 COMMIT THE MURDER AND THE MURDER WAS COMMITTED UNDER AN AGREEMENT
17 OR CONTRACT FOR REMUNERATION OR PROMISE OF REMUNERATION;

18 (VIII) THE DEFENDANT COMMITTED THE MURDER WHILE UNDER
19 A SENTENCE OF LIFE WITHOUT THE POSSIBILITY OF PAROLE OR IMPRISONMENT
20 FOR LIFE;

21 (IX) THE DEFENDANT COMMITTED MORE THAN ONE MURDER IN
22 THE FIRST DEGREE ARISING OUT OF THE SAME INCIDENT; OR

23 (X) THE DEFENDANT COMMITTED THE MURDER WHILE
24 COMMITTING, OR ATTEMPTING TO COMMIT:

25 1. ARSON IN THE FIRST DEGREE;

26 2. CARJACKING OR ARMED CARJACKING;

27 3. RAPE IN THE FIRST DEGREE;

28 4. ROBBERY UNDER § 3-402 OR § 3-403 OF THIS
29 ARTICLE; OR

5. SEXUAL OFFENSE IN THE FIRST DEGREE.

(2) IF THE COURT OR JURY DOES NOT FIND THAT ONE OR MORE OF THE AGGRAVATING CIRCUMSTANCES EXIST BEYOND A REASONABLE DOUBT:

(I) IT SHALL STATE THAT CONCLUSION IN WRITING; AND

(II) A SENTENCE OF LIFE WITHOUT THE POSSIBILITY OF PAROLE MAY NOT BE IMPOSED.

(H) (1) IN THIS SUBSECTION, "CRIME OF VIOLENCE" MEANS:

(I) ABDUCTION;

(II) ARSON IN THE FIRST DEGREE;

(III) CARJACKING OR ARMED CARJACKING;

(IV) ESCAPE IN THE FIRST DEGREE;

(V) KIDNAPPING;

(VI) MAYHEM;

(VII) MURDER;

(VIII) RAPE IN THE FIRST OR SECOND DEGREE;

(IX) ROBBERY UNDER § 3-402 OR § 3-403 OF THIS ARTICLE;

(X) SEXUAL OFFENSE IN THE FIRST OR SECOND DEGREE;

(XI) MANSLAUGHTER OTHER THAN INVOLUNTARY MANSLAUGHTER;

(XII) AN ATTEMPT TO COMMIT ANY CRIME LISTED IN ITEMS (I) THROUGH (XI) OF THIS PARAGRAPH; OR

(XIII) THE USE OF A HANDGUN IN THE COMMISSION OF A FELONY OR OTHER CRIME OF VIOLENCE.

(2) IF THE COURT OR JURY FINDS BEYOND A REASONABLE DOUBT THAT ONE OR MORE OF THE AGGRAVATING CIRCUMSTANCES UNDER SUBSECTION

1 (G) OF THIS SECTION EXISTS, THE COURT OR JURY THEN SHALL CONSIDER
2 WHETHER ANY OF THE FOLLOWING MITIGATING CIRCUMSTANCES EXISTS BASED ON
3 A PREPONDERANCE OF THE EVIDENCE:

4 (I) THE DEFENDANT PREVIOUSLY HAS NOT:

5 1. BEEN FOUND GUILTY OF A CRIME OF VIOLENCE;

6 2. ENTERED A GUILTY PLEA OR A PLEA OF NOLO
7 CONTENDERE TO A CHARGE OF A CRIME OF VIOLENCE; OR

8 3. RECEIVED PROBATION BEFORE JUDGMENT FOR A
9 CRIME OF VIOLENCE;

10 (II) THE VICTIM WAS A PARTICIPANT IN THE CONDUCT OF THE
11 DEFENDANT OR CONSENTED TO THE ACT THAT CAUSED THE VICTIM'S DEATH;

12 (III) THE DEFENDANT ACTED UNDER SUBSTANTIAL DURESS,
13 DOMINATION, OR PROVOCATION OF ANOTHER, BUT NOT SO SUBSTANTIAL AS TO
14 CONSTITUTE A COMPLETE DEFENSE TO THE PROSECUTION;

15 (IV) THE MURDER WAS COMMITTED WHILE THE CAPACITY OF
16 THE DEFENDANT TO APPRECIATE THE CRIMINALITY OF THE DEFENDANT'S
17 CONDUCT OR TO CONFORM THAT CONDUCT TO THE REQUIREMENTS OF LAW WAS
18 SUBSTANTIALLY IMPAIRED DUE TO EMOTIONAL DISTURBANCE, MENTAL DISORDER,
19 OR MENTAL INCAPACITY;

20 (V) THE DEFENDANT WAS OF A YOUTHFUL AGE AT THE TIME OF
21 THE MURDER;

22 (VI) THE ACT OF THE DEFENDANT WAS NOT THE SOLE
23 PROXIMATE CAUSE OF THE VICTIM'S DEATH;

24 (VII) IT IS UNLIKELY THAT THE DEFENDANT WILL ENGAGE IN
25 FURTHER CRIMINAL ACTIVITY THAT WOULD BE A CONTINUING THREAT TO SOCIETY;
26 OR

27 (VIII) ANY OTHER FACT THAT THE COURT OR JURY SPECIFICALLY
28 SETS FORTH IN WRITING AS A MITIGATING CIRCUMSTANCE IN THE CASE.

29 (I) (1) IF THE COURT OR JURY FINDS THAT ONE OR MORE OF THE
30 MITIGATING CIRCUMSTANCES UNDER SUBSECTION (H) OF THIS SECTION EXISTS, IT
31 SHALL DETERMINE BY A PREPONDERANCE OF THE EVIDENCE WHETHER THE

1 AGGRAVATING CIRCUMSTANCES UNDER SUBSECTION (G) OF THIS SECTION
2 OUTWEIGH THE MITIGATING CIRCUMSTANCES.

3 (2) IF THE COURT OR JURY FINDS THAT THE AGGRAVATING
4 CIRCUMSTANCES:

5 (I) OUTWEIGH THE MITIGATING CIRCUMSTANCES, SENTENCE
6 OF LIFE WITHOUT THE POSSIBILITY OF PAROLE SHALL BE IMPOSED; OR

7 (II) DO NOT OUTWEIGH THE MITIGATING CIRCUMSTANCES, A
8 LIFE SENTENCE SHALL BE IMPOSED.

9 (3) IF THE DETERMINATION UNDER PARAGRAPH (1) OF THIS
10 SUBSECTION IS BY A JURY, A DECISION TO IMPOSE A SENTENCE OF LIFE WITHOUT
11 THE POSSIBILITY OF PAROLE MUST BE UNANIMOUS AND SHALL BE SIGNED BY THE
12 JURY FOREPERSON.

13 (4) A COURT OR JURY SHALL MAKE ITS DETERMINATION IN WRITING
14 AND SHALL STATE SPECIFICALLY:

15 (I) EACH AGGRAVATING CIRCUMSTANCE FOUND;

16 (II) EACH MITIGATING CIRCUMSTANCE FOUND;

17 (III) WHETHER ANY AGGRAVATING CIRCUMSTANCES FOUND
18 UNDER SUBSECTION (G) OF THIS SECTION OUTWEIGH THE MITIGATING
19 CIRCUMSTANCES FOUND UNDER SUBSECTION (H) OF THIS SECTION;

20 (IV) WHETHER THE AGGRAVATING CIRCUMSTANCES FOUND
21 UNDER SUBSECTION (G) OF THIS SECTION DO NOT OUTWEIGH THE MITIGATING
22 CIRCUMSTANCES FOUND UNDER SUBSECTION (H) OF THIS SECTION; AND

23 (V) THE SENTENCE DETERMINED UNDER SUBSECTION (G)(2) OF
24 THIS SECTION OR PARAGRAPHS (1) AND (2) OF THIS SUBSECTION.

25 (J) (1) IF A JURY DETERMINES THAT A SENTENCE OF LIFE WITHOUT THE
26 POSSIBILITY OF PAROLE SHALL BE IMPOSED UNDER THE PROVISIONS OF THIS
27 SECTION, THE COURT SHALL IMPOSE A SENTENCE OF LIFE WITHOUT THE
28 POSSIBILITY OF PAROLE.

29 (2) IF, WITHIN A REASONABLE TIME, THE JURY IS UNABLE TO AGREE
30 AS TO WHETHER A SENTENCE OF LIFE WITHOUT THE POSSIBILITY OF PAROLE SHALL
31 BE IMPOSED, THE COURT SHALL IMPOSE A LIFE SENTENCE.

1 **(3) IF THE SENTENCING PROCEEDING IS CONDUCTED BEFORE A**
2 **COURT WITHOUT A JURY, THE COURT SHALL DETERMINE WHETHER A SENTENCE OF**
3 **LIFE WITHOUT THE POSSIBILITY OF PAROLE SHALL BE IMPOSED UNDER THE**
4 **PROVISIONS OF THIS SECTION.**

5 **(K) (1) IMMEDIATELY AFTER THE IMPOSITION OF A SENTENCE OF LIFE**
6 **WITHOUT THE POSSIBILITY OF PAROLE:**

7 **(I) THE CLERK OF THE COURT IN WHICH SENTENCE IS**
8 **IMPOSED, IF DIFFERENT FROM THE COURT WHERE THE INDICTMENT OR**
9 **INFORMATION WAS FILED, SHALL CERTIFY THE PROCEEDINGS TO THE CLERK OF**
10 **THE COURT WHERE THE INDICTMENT OR INFORMATION WAS FILED; AND**

11 **(II) THE CLERK OF THE COURT WHERE THE INDICTMENT OR**
12 **INFORMATION WAS FILED SHALL COPY THE DOCKET ENTRIES IN THE INMATE'S**
13 **CASE, SIGN THE COPIES, AND DELIVER THEM TO THE GOVERNOR.**

14 **(2) THE DOCKET ENTRIES SHALL SHOW FULLY THE SENTENCE OF**
15 **THE COURT AND THE DATE THAT THE SENTENCE WAS ENTERED.**

16 [2-304.

17 (a) If the State gave notice under § 2-203(1) of this title, the court shall conduct
18 a separate sentencing proceeding as soon as practicable after the defendant is found guilty
19 of murder in the first degree to determine whether the defendant shall be sentenced to
20 imprisonment for life without the possibility of parole or to imprisonment for life.

21 (b) (1) A determination by a jury to impose a sentence of imprisonment for life
22 without the possibility of parole must be unanimous.

23 (2) If the jury finds that a sentence of imprisonment for life without the
24 possibility of parole shall be imposed, the court shall impose a sentence of imprisonment
25 for life without the possibility of parole.

26 (3) If, within a reasonable time, the jury is unable to agree to imposition of
27 a sentence of imprisonment for life without the possibility of parole, the court shall impose
28 a sentence of imprisonment for life.]

29 2-305.

30 The Court of Appeals may adopt:

31 (1) rules of procedure to govern the conduct of sentencing proceedings
32 under § [2-304] ~~2-303~~ of this subtitle; and

1 (2) forms for a court or jury to use in making written findings and sentence
2 determinations.

3 **SUBTITLE 4. REVIEW BY COURT OF APPEALS.**

4 **2-401.**

5 (A) (1) AFTER A SENTENCE OF LIFE WITHOUT THE POSSIBILITY OF
6 PAROLE IS IMPOSED AND THE JUDGMENT BECOMES FINAL, THE COURT OF APPEALS
7 SHALL REVIEW THE SENTENCE ON THE RECORD.

8 (2) THE COURT OF APPEALS SHALL CONSOLIDATE AN APPEAL FROM
9 THE VERDICT WITH THE SENTENCE REVIEW.

10 (B) THE CLERK OF THE TRIAL COURT SHALL SEND TO THE CLERK OF THE
11 COURT OF APPEALS:

12 (1) THE ENTIRE RECORD AND THE TRANSCRIPT OF THE SENTENCING
13 PROCEEDING WITHIN 10 DAYS AFTER RECEIVING THE TRANSCRIPT;

14 (2) THE DETERMINATION AND WRITTEN FINDINGS OF THE COURT OR
15 JURY; AND

16 (3) A REPORT OF THE TRIAL COURT THAT:

17 (I) IS IN THE FORM OF A STANDARD QUESTIONNAIRE SUPPLIED
18 BY THE COURT OF APPEALS; AND

19 (II) INCLUDES A RECOMMENDATION BY THE TRIAL COURT AS TO
20 WHETHER THE SENTENCE OF LIFE WITHOUT THE POSSIBILITY OF PAROLE IS
21 JUSTIFIED.

22 (C) THE DEFENDANT AND THE STATE MAY SUBMIT BRIEFS AND PRESENT
23 ORAL ARGUMENTS TO THE COURT OF APPEALS WITHIN THE TIME ALLOWED BY THE
24 COURT.

25 (D) (1) IN ADDITION TO ANY ERROR PROPERLY BEFORE THE COURT ON
26 APPEAL, THE COURT OF APPEALS SHALL CONSIDER THE IMPOSITION OF THE
27 SENTENCE OF LIFE WITHOUT THE POSSIBILITY OF PAROLE.

28 (2) WITH REGARD TO THE SENTENCE OF LIFE WITHOUT THE
29 POSSIBILITY OF PAROLE, THE COURT OF APPEALS SHALL DETERMINE WHETHER:

1 **(I) THE IMPOSITION OF THE SENTENCE OF LIFE WITHOUT THE**
2 **POSSIBILITY OF PAROLE WAS INFLUENCED BY PASSION, PREJUDICE, OR ANY OTHER**
3 **ARBITRARY FACTOR;**

4 **(II) THE EVIDENCE SUPPORTS THE FINDING BY THE COURT OR**
5 **JURY OF A STATUTORY AGGRAVATING CIRCUMSTANCE UNDER § 2-303(G) OF THIS**
6 **TITLE; AND**

7 **(III) THE EVIDENCE SUPPORTS A FINDING BY THE COURT OR**
8 **JURY THAT THE AGGRAVATING CIRCUMSTANCES OUTWEIGH THE MITIGATING**
9 **CIRCUMSTANCES UNDER § 2-303(H) AND (I)(1) OF THIS TITLE.**

10 **(3) IN ADDITION TO ITS REVIEW UNDER ANY DIRECT APPEAL, WITH**
11 **REGARD TO THE SENTENCE OF LIFE WITHOUT THE POSSIBILITY OF PAROLE, THE**
12 **COURT OF APPEALS SHALL:**

13 **(I) AFFIRM THE SENTENCE OF LIFE WITHOUT THE POSSIBILITY**
14 **OF PAROLE;**

15 **(II) SET THE SENTENCE OF LIFE WITHOUT THE POSSIBILITY OF**
16 **PAROLE ASIDE AND REMAND THE CASE FOR A NEW SENTENCING PROCEEDING**
17 **UNDER § 2-303 OF THIS TITLE; OR**

18 **(III) SET THE SENTENCE OF LIFE WITHOUT THE POSSIBILITY OF**
19 **PAROLE ASIDE AND REMAND THE CASE FOR MODIFICATION OF THE SENTENCE TO**
20 **IMPRISONMENT FOR LIFE.**

21 **(E) THE COURT OF APPEALS MAY ADOPT RULES OF PROCEDURE FOR THE**
22 **EXPEDITED REVIEW OF SENTENCES OF LIFE WITHOUT THE POSSIBILITY OF PAROLE**
23 **UNDER THIS SECTION.**

24 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed to
25 apply retroactively and shall be applied to and interpreted to affect any murder committed
26 on or after October 1, 2013.

27 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
28 October 1, 2016.