

HOUSE BILL 87

E1, E2

4lr0520

(PRE-FILED)

By: **Delegate Mangione**

Requested: August 28, 2023

Introduced and read first time: January 10, 2024

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Law – Death Penalty**

3 FOR the purpose of providing that a person who is convicted of first-degree murder may
4 be sentenced to death under certain circumstances; establishing certain procedures
5 relating to custody, warrant of execution, incompetency, method of execution,
6 witnesses, certificate, disposition of body, notice, trial, sentencing, review, and
7 appeal in relation to the imposition of the death penalty; and generally relating to
8 the death penalty.

9 BY adding to

10 Article – Correctional Services
11 Section 3–901 through 3–909 to be under the new subtitle “Subtitle 9. Death Penalty
12 Procedures”
13 Annotated Code of Maryland
14 (2017 Replacement Volume and 2023 Supplement)

15 BY repealing and reenacting, with amendments,

16 Article – Correctional Services
17 Section 4–101(e)(2), 4–305(b)(2), 6–112(c), and 7–301(d)(2)
18 Annotated Code of Maryland
19 (2017 Replacement Volume and 2023 Supplement)

20 BY repealing and reenacting, with amendments,

21 Article – Courts and Judicial Proceedings
22 Section 3–8A–03(d)(1), 3–8A–06(a), 8–404, 8–420, 9–204, and 12–307
23 Annotated Code of Maryland
24 (2020 Replacement Volume and 2023 Supplement)

25 BY repealing and reenacting, with amendments,

26 Article – Criminal Procedure

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



Section 3–105(b), 3–106(b), 3–107(a), 4–204(b), 5–101(c), 7–101, 7–103(b), and
7–107(b)
Annotated Code of Maryland
(2018 Replacement Volume and 2023 Supplement)

BY adding to

Article – Criminal Procedure
Section 7–201 through 7–204 to be under the new subtitle “Subtitle 2. Proceedings
After Death Sentences”; and 8–108 and 11–404
Annotated Code of Maryland
(2018 Replacement Volume and 2023 Supplement)

BY repealing and reenacting, with amendments,

Article – Criminal Law
Section 2–201(b), 2–304(a), 2–305, and 14–101
Annotated Code of Maryland
(2021 Replacement Volume and 2023 Supplement)

BY adding to

Article – Criminal Law
Section 2–202, 2–301, and 2–303; and 2–401 to be under the new subtitle “Subtitle
4. Review by Supreme Court of Maryland”
Annotated Code of Maryland
(2021 Replacement Volume and 2023 Supplement)

BY repealing and reenacting, with amendments,

Article – Health – General
Section 8–505(b)
Annotated Code of Maryland
(2023 Replacement Volume)

BY repealing and reenacting, with amendments,

Article – Transportation
Section 16–812(a)
Annotated Code of Maryland
(2020 Replacement Volume and 2023 Supplement)

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

Article – Correctional Services

SUBTITLE 9. DEATH PENALTY PROCEDURES.

3–901.

(A) WHENEVER AN INDIVIDUAL IS SENTENCED TO DEATH, THE JUDGE OF

1 THE COURT IN WHICH THE CONVICTION TAKES PLACE SHALL CAUSE THE
2 INDIVIDUAL TO BE TAKEN INTO CUSTODY BY THE SHERIFF OF THE COUNTY IN WHICH
3 THE INDIVIDUAL WAS INDICTED.

4 (B) (1) WHILE AN INCARCERATED INDIVIDUAL IS IN THE CUSTODY OF
5 THE SHERIFF, THE SHERIFF SHALL:

6 (I) HOLD THE INCARCERATED INDIVIDUAL UNDER GUARD AS
7 THE SHERIFF DETERMINES TO BE NECESSARY; AND

8 (II) KEEP THE INCARCERATED INDIVIDUAL IN SOLITARY
9 CONFINEMENT IN THE SAME MANNER AS IS REQUIRED WHEN THE INCARCERATED
10 INDIVIDUAL IS IN THE CUSTODY OF THE DEPARTMENT.

11 (2) AS SOON AS POSSIBLE, THE SHERIFF SHALL DELIVER THE
12 INCARCERATED INDIVIDUAL TO THE DEPARTMENT TO AWAIT THE EXECUTION OF
13 THE INCARCERATED INDIVIDUAL'S SENTENCE.

14 (C) THE EXPENSES OF THE DEPARTMENT RELATING TO THE DETENTION OF
15 AN INCARCERATED INDIVIDUAL UNDER SENTENCE OF DEATH, INCLUDING THE
16 EXPENSES OF GUARDING, LODGING, FEEDING, CLOTHING, AND CARING FOR THE
17 INCARCERATED INDIVIDUAL, MAY NOT BE ASSESSED AGAINST, BILLED TO, OR PAID
18 BY THE COUNTY IN WHICH THE INCARCERATED INDIVIDUAL WAS INDICTED.

19 3-902.

20 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
21 INDICATED.

22 (2) (I) "STATE POSTCONVICTION REVIEW PROCESS" MEANS THE
23 INITIAL ADJUDICATION OF A POSTCONVICTION PETITION FILED UNDER §
24 7-103 OF THE CRIMINAL PROCEDURE ARTICLE, INCLUDING ANY APPELLATE
25 REVIEW OF THE POSTCONVICTION PROCEEDING.

26 (II) "STATE POSTCONVICTION REVIEW PROCESS" DOES NOT
27 INCLUDE:

28 1. A POSTCONVICTION PROCEEDING THAT HAS BEEN
29 REOPENED UNDER § 7-104 OF THE CRIMINAL PROCEDURE ARTICLE OR ANY
30 APPELLATE REVIEW OF THE PROCEEDING; OR

31 2. A POSTCONVICTION PROCEEDING ON A SECOND
32 PETITION FILED BEFORE OCTOBER 1, 1995, OR ANY APPELLATE REVIEW OF THE

1 PROCEEDING.

2 (3) "WARRANT OF EXECUTION" MEANS A WARRANT FOR THE
3 EXECUTION OF A SENTENCE OF DEATH ON THE INDIVIDUAL AGAINST WHOM THE
4 SENTENCE WAS IMPOSED.

5 (B) A WARRANT OF EXECUTION SHALL:

6 (1) STATE THE CONVICTION AND SENTENCE;

7 (2) DESIGNATE A 5-DAY PERIOD, BEGINNING ON A MONDAY, WITHIN
8 WHICH THE SENTENCE MUST BE EXECUTED; AND

9 (3) COMMAND THE SECRETARY TO CARRY OUT THE DEATH PENALTY
10 ON A DAY WITHIN THE DESIGNATED PERIOD.

11 (C) AT THE TIME AN INDIVIDUAL IS SENTENCED TO DEATH, THE JUDGE
12 PRESIDING IN THE COURT SHALL ISSUE A WARRANT OF EXECUTION DIRECTED TO
13 THE SECRETARY.

14 (D) (1) A WARRANT OF EXECUTION IS STAYED DURING THE DIRECT
15 REVIEW PROCESS AND THE STATE POSTCONVICTION REVIEW PROCESS.

16 (2) IF THE ORIGINAL WARRANT OF EXECUTION HAS NOT EXPIRED AT
17 THE END OF THE STATE POSTCONVICTION REVIEW PROCESS, THE JUDGE WHO
18 IMPOSED THE SENTENCE OF DEATH OR THE JUDGE THEN PRESIDING IN THE COURT
19 IN WHICH THE SENTENCE WAS IMPOSED SHALL LIFT THE STAY IMPOSED UNDER
20 PARAGRAPH (1) OF THIS SUBSECTION.

21 (3) IF THE ORIGINAL WARRANT OF EXECUTION HAS EXPIRED AT THE
22 END OF THE STATE POSTCONVICTION REVIEW PROCESS, THE JUDGE WHO IMPOSED
23 THE SENTENCE OF DEATH OR THE JUDGE THEN PRESIDING IN THE COURT IN WHICH
24 THE SENTENCE WAS IMPOSED SHALL ISSUE ANOTHER WARRANT OF EXECUTION.

25 (E) (1) IF THE GOVERNOR IS SATISFIED THAT A MEDICAL EXAMINATION
26 SHOWS THAT AN INCARCERATED INDIVIDUAL IS PREGNANT, THE GOVERNOR SHALL
27 REVOKE A WARRANT OF EXECUTION FOR THE INCARCERATED INDIVIDUAL.

28 (2) AS SOON AS THE GOVERNOR IS SATISFIED THAT THE
29 INCARCERATED INDIVIDUAL IS NO LONGER PREGNANT, THE GOVERNOR PROMPTLY
30 SHALL ISSUE ANOTHER WARRANT OF EXECUTION.

31 (F) (1) THE GOVERNOR MAY GRANT A STAY OF A WARRANT OF

1 EXECUTION FOR ANY CAUSE.

2 (2) IF THE GOVERNOR GRANTS A STAY UNDER THIS SUBSECTION:

3 (I) THE GOVERNOR SHALL ISSUE AN ORDER REVOKING THE
4 WARRANT OF EXECUTION; AND

5 (II) THE SENTENCE OF DEATH MAY NOT BE EXECUTED UNTIL
6 THE GOVERNOR ISSUES ANOTHER WARRANT OF EXECUTION.

7 (3) THE GOVERNOR PROMPTLY SHALL NOTIFY THE SECRETARY OF
8 AN ORDER THAT REVOKES A WARRANT OF EXECUTION.

9 (G) (1) THE SECRETARY SHALL SET A TIME, WITHIN THE PERIOD
10 DESIGNATED IN THE WARRANT OF EXECUTION, WHEN THE SENTENCE OF DEATH
11 SHALL BE EXECUTED.

12 (2) NO PREVIOUS ANNOUNCEMENT OF THE DAY OR TIME OF THE
13 EXECUTION MAY BE MADE EXCEPT TO THOSE WHO ARE INVITED OR ALLOWED TO BE
14 PRESENT AS PROVIDED IN THIS SUBTITLE.

15 3-903.

16 (A) IN THIS SECTION, "OFFICIAL" MEANS:

17 (1) THE SECRETARY; OR

18 (2) THE SHERIFF OF THE COUNTY IN WHICH AN INCARCERATED
19 INDIVIDUAL WAS INDICTED.

20 (B) (1) IF THE GOVERNOR GRANTS A REPRIEVE TO AN INCARCERATED
21 INDIVIDUAL UNDER SENTENCE OF DEATH OR A COURT IMPOSES A STAY ON THE
22 EXECUTION OF A SENTENCE OF DEATH, THE GOVERNOR OR THE COURT SHALL
23 SERVE NOTICE OF THE REPRIEVE OR STAY ON:

24 (I) THE INCARCERATED INDIVIDUAL; AND

25 (II) THE OFFICIAL WHO HAS CUSTODY OF THE INCARCERATED
26 INDIVIDUAL.

27 (2) THE OFFICIAL WHO HAS CUSTODY OF THE INCARCERATED
28 INDIVIDUAL SHALL OBEY THE REPRIEVE OR STAY.

(C) AN INCARCERATED INDIVIDUAL WHO IS GRANTED A REPRIEVE OR STAY SHALL REMAIN IN THE CUSTODY OF THE OFFICIAL WHO RECEIVES NOTICE UNDER SUBSECTION (B)(1)(II) OF THIS SECTION.

(D) (1) IN ANY SUBSEQUENT JUDICIAL PROCEEDING, THE COURT SHALL SERVE ANY COURT ORDER REGARDING AN INCARCERATED INDIVIDUAL ON:

(I) THE INCARCERATED INDIVIDUAL; AND

(II) THE OFFICIAL WHO HAS CUSTODY OF THE INCARCERATED INDIVIDUAL.

(2) IF A COURT RESENTENCES AN INCARCERATED INDIVIDUAL TO DEATH, THE PROVISIONS OF THIS SUBTITLE SHALL APPLY TO THE NEW SENTENCE IN THE SAME MANNER AS THE ORIGINAL SENTENCE.

(3) (I) IF A NEW TRIAL IS GRANTED TO AN INCARCERATED INDIVIDUAL WHO IS IN THE CUSTODY OF THE SECRETARY, THE INCARCERATED INDIVIDUAL SHALL BE TRANSPORTED BACK TO THE PLACE OF TRIAL UNDER GUARD AS THE SECRETARY DIRECTS.

(II) THE EXPENSES RELATING TO THE TRANSPORTATION OF AN INCARCERATED INDIVIDUAL BACK TO THE PLACE OF TRIAL UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH SHALL BE PAID BY THE DEPARTMENT.

3-904.

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

(2) "INCARCERATED INDIVIDUAL" MEANS AN INDIVIDUAL WHO HAS BEEN CONVICTED OF MURDER AND SENTENCED TO DEATH.

(3) "INCOMPETENT" MEANS THE STATE OF MIND OF AN INCARCERATED INDIVIDUAL WHO, AS A RESULT OF A MENTAL DISORDER OR AN INTELLECTUAL DISABILITY, LACKS AWARENESS:

(I) OF THE FACT OF THE INCARCERATED INDIVIDUAL'S IMPENDING EXECUTION; AND

(II) THAT THE INCARCERATED INDIVIDUAL IS TO BE EXECUTED FOR THE CRIME OF MURDER.

1 **(B) AN INCARCERATED INDIVIDUAL IS NOT INCOMPETENT UNDER THIS**
2 **SECTION MERELY BECAUSE THE INCARCERATED INDIVIDUAL'S COMPETENCE**
3 **DEPENDS ON CONTINUING TREATMENT, INCLUDING THE USE OF MEDICATION.**

4 **(C) THE STATE MAY NOT EXECUTE A SENTENCE OF DEATH AGAINST AN**
5 **INCARCERATED INDIVIDUAL WHO HAS BECOME INCOMPETENT.**

6 **(D) (1) A PETITION THAT ALLEGES THAT AN INCARCERATED INDIVIDUAL**
7 **IS INCOMPETENT AND THAT SEEKS TO REVOKE A WARRANT OF EXECUTION AGAINST**
8 **THE INCARCERATED INDIVIDUAL MAY BE FILED BY:**

9 **(I) THE INCARCERATED INDIVIDUAL;**

10 **(II) IF THE INCARCERATED INDIVIDUAL IS REPRESENTED BY**
11 **COUNSEL, COUNSEL FOR THE INCARCERATED INDIVIDUAL; OR**

12 **(III) IF THE INCARCERATED INDIVIDUAL IS NOT REPRESENTED**
13 **BY COUNSEL, ANY OTHER PERSON ON THE INCARCERATED INDIVIDUAL'S BEHALF.**

14 **(2) THE PETITION SHALL BE FILED IN THE CIRCUIT COURT OF THE**
15 **COUNTY IN WHICH THE INCARCERATED INDIVIDUAL IS CONFINED.**

16 **(3) ON THE FILING OF THE PETITION, THE COURT MAY STAY ANY**
17 **WARRANT OF EXECUTION THAT WAS ISSUED PREVIOUSLY AND HAS NOT YET**
18 **EXPIRED.**

19 **(4) THE PETITION MUST BE ACCOMPANIED BY AN AFFIDAVIT OF AT**
20 **LEAST ONE PSYCHIATRIST THAT:**

21 **(I) IS BASED, AT LEAST IN PART, ON PERSONAL EXAMINATION;**

22 **(II) STATES THAT, IN THE PSYCHIATRIST'S MEDICAL OPINION,**
23 **THE INCARCERATED INDIVIDUAL IS INCOMPETENT; AND**

24 **(III) STATES THE PERTINENT FACTS ON WHICH THE OPINION IS**
25 **BASED.**

26 **(5) A COPY OF THE PETITION SHALL BE SERVED ON THE ATTORNEY**
27 **GENERAL AND THE OFFICE OF THE STATE'S ATTORNEY THAT PROSECUTED THE**
28 **INCARCERATED INDIVIDUAL, IN ACCORDANCE WITH THE SERVICE REQUIREMENTS**
29 **OF THE MARYLAND RULES.**

30 **(6) UNLESS THE INCARCERATED INDIVIDUAL IS ALREADY**

1 REPRESENTED BY COUNSEL, THE COURT PROMPTLY SHALL APPOINT A PUBLIC
2 DEFENDER OR, IF THE PUBLIC DEFENDER FOR GOOD CAUSE DECLINES
3 REPRESENTATION, OTHER COUNSEL TO REPRESENT THE INCARCERATED
4 INDIVIDUAL IN THE PROCEEDING.

5 (7) UNLESS THE STATE'S ATTORNEY STIPULATES THAT THE
6 INCARCERATED INDIVIDUAL IS INCOMPETENT, THE STATE'S ATTORNEY SHALL
7 CAUSE THE INCARCERATED INDIVIDUAL TO BE EXAMINED AND EVALUATED BY ONE
8 OR MORE PSYCHIATRISTS SELECTED BY THE STATE'S ATTORNEY.

9 (8) IF THE INCARCERATED INDIVIDUAL'S PETITION IS REASONABLE
10 AND MADE IN A TIMELY MANNER, THE INCARCERATED INDIVIDUAL IS ENTITLED TO
11 BE INDEPENDENTLY EXAMINED BY A PSYCHIATRIST THAT THE INCARCERATED
12 INDIVIDUAL SELECTS.

13 (9) UNLESS, WITH THE COURT'S APPROVAL, THE PARTIES WAIVE A
14 HEARING, THE ADMINISTRATIVE JUDGE OF THE COURT SHALL DESIGNATE A TIME
15 FOR AN EVIDENTIARY HEARING TO DETERMINE THE INCARCERATED INDIVIDUAL'S
16 COMPETENCE.

17 (E) (1) A HEARING UNDER THIS SECTION SHALL BE HELD WITHOUT A
18 JURY:

19 (I) IN COURT;

20 (II) AT THE PLACE WHERE THE INCARCERATED INDIVIDUAL IS
21 CONFINED; OR

22 (III) AT ANOTHER CONVENIENT PLACE.

23 (2) AT THE HEARING, AN INCARCERATED INDIVIDUAL:

24 (I) SUBJECT TO REASONABLE RESTRICTIONS RELATED TO THE
25 INCARCERATED INDIVIDUAL'S CONDITION, MAY BE PRESENT;

26 (II) THROUGH COUNSEL, MAY OFFER EVIDENCE,
27 CROSS-EXAMINE WITNESSES AGAINST THE INCARCERATED INDIVIDUAL, AND MAKE
28 ARGUMENT; AND

29 (III) HAS THE BURDEN OF ESTABLISHING INCOMPETENCE BY A
30 PREPONDERANCE OF THE EVIDENCE.

31 (F) THE COURT SHALL ENTER AN ORDER THAT:

1 (1) DECLARES AN INCARCERATED INDIVIDUAL TO BE EITHER
2 COMPETENT OR INCOMPETENT; AND

3 (2) STATES THE FINDINGS ON WHICH THE DECLARATION IS BASED.

4 (G) IF THE COURT FINDS AN INCARCERATED INDIVIDUAL TO BE
5 COMPETENT, THE COURT IMMEDIATELY:

6 (1) SHALL LIFT ANY STAY OF A WARRANT OF EXECUTION THAT WAS
7 ISSUED PREVIOUSLY AND HAS NOT YET EXPIRED; OR

8 (2) IF ALL PREVIOUSLY ISSUED WARRANTS OF EXECUTION HAVE
9 EXPIRED, SHALL NOTIFY THE COURT THAT IMPOSED THE SENTENCE OF DEATH AND
10 REQUEST THAT THE COURT ISSUE A NEW WARRANT OF EXECUTION.

11 (H) (1) IF THE COURT FINDS AN INCARCERATED INDIVIDUAL TO BE
12 INCOMPETENT, THE COURT SHALL:

13 (I) STAY ANY WARRANT OF EXECUTION THAT WAS ISSUED
14 PREVIOUSLY AND HAS NOT YET EXPIRED; AND

15 (II) REMAND THE CASE TO THE COURT IN WHICH THE SENTENCE
16 OF DEATH WAS IMPOSED.

17 (2) THE COURT IN WHICH THE SENTENCE OF DEATH WAS IMPOSED
18 SHALL STRIKE THE SENTENCE OF DEATH AND ENTER IN ITS PLACE A SENTENCE OF
19 IMPRISONMENT FOR LIFE WITHOUT THE POSSIBILITY OF PAROLE.

20 (3) THE SENTENCE OF IMPRISONMENT FOR LIFE WITHOUT THE
21 POSSIBILITY OF PAROLE IMPOSED UNDER PARAGRAPH (2) OF THIS SUBSECTION IS
22 MANDATORY AND MAY NOT BE SUSPENDED WHOLLY OR PARTLY.

23 (I) (1) THERE IS NO RIGHT OF APPEAL FROM AN ORDER ISSUED BY A
24 CIRCUIT COURT UNDER THIS SECTION.

25 (2) NOTWITHSTANDING PARAGRAPH (1) OF THIS SUBSECTION,
26 EITHER PARTY MAY SEEK REVIEW IN THE SUPREME COURT OF MARYLAND BY
27 FILING AN APPLICATION FOR LEAVE TO APPEAL IN ACCORDANCE WITH THE
28 MARYLAND RULES.

29 (3) IF AN APPLICATION FOR LEAVE TO APPEAL IS FILED, THE
30 SUPREME COURT OF MARYLAND MAY STAY ANY WARRANT OF EXECUTION THAT WAS

1 ISSUED PREVIOUSLY AND HAS NOT EXPIRED.

2 (J) (1) NOT EARLIER THAN 6 MONTHS AFTER A FINDING OF
3 COMPETENCE, AN INCARCERATED INDIVIDUAL MAY PETITION THE COURT FOR A
4 REDETERMINATION OF COMPETENCE.

5 (2) THE PETITION MUST BE ACCOMPANIED BY AN AFFIDAVIT OF AT
6 LEAST ONE PSYCHIATRIST THAT:

7 (I) IS BASED, AT LEAST IN PART, ON PERSONAL EXAMINATION;

8 (II) STATES THAT, IN THE PSYCHIATRIST'S MEDICAL OPINION,
9 THE INCARCERATED INDIVIDUAL IS INCOMPETENT;

10 (III) STATES THAT THE INCOMPETENCE AROSE SINCE THE
11 PREVIOUS FINDING OF COMPETENCE; AND

12 (IV) STATES THE PERTINENT FACTS ON WHICH EACH OPINION IS
13 BASED, INCLUDING THE FACTS THAT SHOW THE CHANGE IN THE INCARCERATED
14 INDIVIDUAL'S CONDITION SINCE THE PREVIOUS FINDING.

15 (3) PROCEEDINGS ON A PETITION UNDER THIS SUBSECTION SHALL
16 BE IN ACCORDANCE WITH SUBSECTIONS (D) THROUGH (I) OF THIS SECTION.

17 (K) THE MARYLAND RULES SHALL GOVERN:

18 (1) THE FORM OF PETITIONS AND ALL OTHER PLEADINGS; AND

19 (2) EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, THE
20 PROCEDURES TO BE FOLLOWED BY THE CIRCUIT COURT IN DETERMINING
21 COMPETENCY OR INCOMPETENCY AND BY THE SUPREME COURT OF MARYLAND IN
22 REVIEWING APPLICATIONS FOR LEAVE TO APPEAL.

23 (L) THIS SECTION DOES NOT AFFECT THE POWER OF THE GOVERNOR TO
24 STAY EXECUTION OF A SENTENCE OF DEATH UNDER § 3-902(F) OF THIS SUBTITLE
25 OR TO COMMUTE A SENTENCE OF DEATH UNDER § 7-601 OF THIS ARTICLE.

26 3-905.

27 (A) THE MANNER OF INFLECTING THE PUNISHMENT OF DEATH SHALL BE
28 THE CONTINUOUS INTRAVENOUS ADMINISTRATION OF A LETHAL QUANTITY OF AN
29 ULTRASHORT-ACTING BARBITURATE OR OTHER SIMILAR DRUG IN COMBINATION
30 WITH A CHEMICAL PARALYTIC AGENT THAT REMAINS CONTINUOUS UNTIL A

1 LICENSED PHYSICIAN PRONOUNCES DEATH ACCORDING TO ACCEPTED STANDARDS
2 OF MEDICAL PRACTICE.

3 (B) (1) THE ADMINISTRATION OF THE LETHAL SUBSTANCES REQUIRED
4 BY THIS SECTION IS NOT THE PRACTICE OF MEDICINE.

5 (2) NOTWITHSTANDING ANY OTHER LAW, A PHARMACIST OR
6 PHARMACEUTICAL SUPPLIER MAY DISPENSE DRUGS, WITHOUT A PRESCRIPTION, TO
7 THE SECRETARY OR THE SECRETARY'S DESIGNEE TO CARRY OUT THIS SECTION.

8 **3-906.**

9 (A) THE SECRETARY SHALL:

10 (1) PROVIDE A SUITABLE AND EFFICIENT PLACE, ENCLOSED FROM
11 PUBLIC VIEW, IN WHICH AN EXECUTION MAY BE CARRIED OUT;

12 (2) PROVIDE ALL THE MATERIALS THAT ARE NECESSARY TO
13 PERFORM THE EXECUTION; AND

14 (3) SUBJECT TO SUBSECTION (C) OF THIS SECTION, SELECT THE
15 INDIVIDUALS TO PERFORM THE EXECUTION.

16 (B) THE SECRETARY OR THE SECRETARY'S DESIGNEE SHALL SUPERVISE
17 THE EXECUTION.

18 (C) (1) AN EXECUTION SHALL BE PERFORMED BY INDIVIDUALS WHO ARE
19 SELECTED BY THE SECRETARY AND TRAINED TO ADMINISTER THE LETHAL
20 INJECTION.

21 (2) AN INDIVIDUAL WHO ADMINISTERS THE PARALYTIC AGENT AND
22 LETHAL INJECTION NEED NOT BE LICENSED OR CERTIFIED AS ANY TYPE OF HEALTH
23 CARE PRACTITIONER UNDER THE HEALTH OCCUPATIONS ARTICLE.

24 **3-907.**

25 (A) IN ADDITION TO THOSE INDIVIDUALS WHO ARE OTHERWISE REQUIRED
26 TO SUPERVISE, PERFORM, OR PARTICIPATE IN AN EXECUTION, THE SECRETARY
27 SHALL SELECT AT LEAST 6 BUT NOT MORE THAN 12 RESPECTABLE CITIZENS TO
28 OBSERVE THE EXECUTION.

29 (B) COUNSEL FOR THE INCARCERATED INDIVIDUAL AND A MEMBER OF THE
30 CLERGY MAY BE PRESENT AT THE EXECUTION.

1 **3-908.**

2 **THE SECRETARY SHALL:**

3 **(1) PREPARE AND SIGN A CERTIFICATE THAT STATES:**

4 **(I) THE TIME AND PLACE OF EXECUTION; AND**

5 **(II) THAT THE EXECUTION WAS CONDUCTED IN ACCORDANCE**
6 **WITH THE SENTENCE OF THE COURT AND THE PROVISIONS OF THIS SUBTITLE;**

7 **(2) REQUEST THAT EACH WITNESS TO THE EXECUTION SIGN THE**
8 **CERTIFICATE; AND**

9 **(3) FILE THE CERTIFICATE WITHIN 10 DAYS AFTER THE EXECUTION**
10 **WITH THE CLERK OF THE COURT IN THE COUNTY IN WHICH THE INCARCERATED**
11 **INDIVIDUAL WAS INDICTED.**

12 **3-909.**

13 **(A) ON APPLICATION OF A RELATIVE, THE BODY OF AN EXECUTED**
14 **INCARCERATED INDIVIDUAL SHALL BE RETURNED TO THE RELATIVE AT THE**
15 **RELATIVE'S COST.**

16 **(B) IF AN APPLICATION IS NOT MADE UNDER SUBSECTION (A) OF THIS**
17 **SECTION, THE SECRETARY SHALL ARRANGE FOR BURIAL.**

18 **4-101.**

19 **(e) (2) "Eligible person" does not include an individual who:**

20 **(i) is serving two or more sentences of imprisonment for life under**
21 **§ 2-201, [former] § 2-303, or § 2-304 of the Criminal Law Article;**

22 **(ii) is serving one or more sentences of imprisonment for life when a**
23 **court or jury has found under [former] § 2-303 of the Criminal Law Article, beyond a**
24 **reasonable doubt, that one or more aggravating circumstances existed; or**

25 **(iii) has been convicted of murder in the first degree, rape in the first**
26 **degree, or a sexual offense in the first degree, unless the sentencing judge, at the time of**
27 **sentencing or in the exercise of the judge's revisory power under the Maryland Rules,**
28 **recommends that the individual be referred to the Institution for evaluation.**

1 4–305.

2 (b) (2) An incarcerated individual sentenced to life imprisonment as a result
3 of a proceeding under [former] § 2–303 or § 2–304 of the Criminal Law Article is not eligible
4 for parole consideration until the incarcerated individual has served 25 years or the
5 equivalent of 25 years when considering allowances for diminution of the incarcerated
6 individual's period of confinement as provided under Title 3, Subtitle 7 of this article and §
7 6–218 of the Criminal Procedure Article.

8 6–112.

9 (c) (1) The Division shall complete a presentence investigation report in each
10 case in which **THE DEATH PENALTY OR** imprisonment for life without the possibility of
11 parole is requested under **§ 2–202 OR** § 2–203 of the Criminal Law Article.

12 (2) The report shall include a victim impact statement as provided under §
13 11–402 of the Criminal Procedure Article.

14 (3) The court or jury before which the separate sentencing proceeding is
15 conducted under **§ 2–303 OR** § 2–304 of the Criminal Law Article shall consider the report.

16 7–301.

17 (d) (2) An incarcerated individual who has been sentenced to life
18 imprisonment as a result of a proceeding under [former] § 2–303 or § 2–304 of the Criminal
19 Law Article is not eligible for parole consideration until the incarcerated individual has
20 served 25 years or the equivalent of 25 years considering the allowances for diminution of
21 the incarcerated individual's term of confinement under § 6–218 of the Criminal Procedure
22 Article and Title 3, Subtitle 7 of this article.

23 **Article – Courts and Judicial Proceedings**

24 3–8A–03.

25 (d) The court does not have jurisdiction over:

26 (1) A child at least 14 years old alleged to have done an act that, if
27 committed by an adult, would be a crime punishable by **DEATH OR** life imprisonment, as
28 well as all other charges against the child arising out of the same incident, unless an order
29 removing the proceeding to the court has been filed under § 4–202 of the Criminal
30 Procedure Article;

31 3–8A–06.

32 (a) The court may waive the exclusive jurisdiction conferred by § 3–8A–03 of this
33 subtitle with respect to a petition alleging delinquency by:

(1) A child who is 15 years old or older; or

(2) A child who has not reached [his] **THE CHILD'S** 15th birthday, but who is charged with committing an act that, if committed by an adult, would be punishable by **DEATH OR** life imprisonment.

8–404.

(a) Notwithstanding § 8–103(a) of this title, a trial judge may strike an individual who is party in a civil case while the individual is entitled to a jury trial in the county.

(b) (1) Whenever more individuals than are needed to impanel a jury have been summoned, an individual may be excused but only in accordance with rule or other law.

(2) An individual who is summoned for jury service may be struck from a particular jury only:

(i) In accordance with rule or other law, by a party on peremptory challenge;

(ii) For good cause shown, by a trial judge on a challenge by a party; or

(iii) Subject to paragraph (3) of this subsection, by a trial judge who finds that:

1. The individual may be unable to render impartial jury service;

2. The individual's service likely would disrupt the proceeding; or

3. The individual's service may threaten the secrecy of a proceeding or otherwise affect the integrity of the jury deliberations adversely.

(3) A trial judge may not strike an individual under paragraph (2)(iii)3 of this subsection, unless the judge states on the record:

(i) Each reason for the strike; and

(ii) A finding that the strike is warranted and not inconsistent with §§ 8–102(a) and (b) and 8–104 of this title.

(4) An individual struck under this subsection may serve on another jury for which the basis for the strike is irrelevant.

(c) (1) A TRIAL JUDGE MAY STRIKE AN INDIVIDUAL ON THE BASIS OF THE INDIVIDUAL'S BELIEF FOR OR AGAINST CAPITAL PUNISHMENT ONLY IF THE JUDGE FINDS THAT THE BELIEF WOULD PREVENT OR SUBSTANTIALLY IMPAIR THE INDIVIDUAL FROM RETURNING AN IMPARTIAL VERDICT ACCORDING TO LAW.

(2) AN INDIVIDUAL STRUCK UNDER THIS SUBSECTION MAY SERVE ON ANOTHER JURY FOR WHICH THE BASIS FOR THE STRIKE IS IRRELEVANT.

8-420.

(a) (1) This subsection applies only in a criminal trial in which a defendant is subject, on any single count, to [a]:

(i) A DEATH SENTENCE BECAUSE THE STATE HAS GIVEN NOTICE OF INTENTION TO SEEK A DEATH SENTENCE IN ACCORDANCE WITH § 2-202 OF THE CRIMINAL LAW ARTICLE; OR

(ii) A sentence of life imprisonment, INCLUDING A CASE IN WHICH THE STATE HAS NOT GIVEN NOTICE OF INTENTION TO SEEK A DEATH SENTENCE IN ACCORDANCE WITH § 2-202 OF THE CRIMINAL LAW ARTICLE BUT excluding a common law offense for which no specific statutory penalty is provided.

(2) Each defendant is allowed 20 peremptory challenges.

(3) The State is allowed 10 peremptory challenges for each defendant.

(b) (1) This subsection applies only in a criminal trial in which a defendant is subject, on any single count, to a sentence of at least 20 years, excluding a case subject to subsection (a) of this section or a common law offense for which no specific statutory penalty is provided.

(2) Each defendant is allowed 10 peremptory challenges.

(3) The State is allowed five peremptory challenges for each defendant.

(c) In every other criminal trial, each party is allowed four peremptory challenges.

9-204.

(A) The court that issued an execution on a forfeited recognizance for a witness who failed to appear may discharge the witness from execution upon motion showing good and sufficient cause for the failure.

(B) THIS SECTION DOES NOT APPLY IN A CASE IF CAPITAL PUNISHMENT MAY BE INVOLVED.

12–307.

The Supreme Court of Maryland has:

(1) Jurisdiction to review a case or proceeding pending in or decided by the Appellate Court of Maryland in accordance with Subtitle 2 of this title;

(2) Jurisdiction to review a case or proceeding decided by a circuit court, in accordance with § 12–305 of this subtitle; [and]

(3) Exclusive appellate jurisdiction with respect to a question of law certified to it under the Uniform Certification of Questions of Law Act; AND

(4) EXCLUSIVE APPELLATE JURISDICTION OVER A CRIMINAL CASE IN WHICH THE DEATH PENALTY IS IMPOSED AND ANY APPELLATE PROCEEDING UNDER § 3–904 OF THE CORRECTIONAL SERVICES ARTICLE.

Article – Criminal Procedure

3–105.

(b) [On] EXCEPT IN A CAPITAL CASE, ON consideration of the nature of the charge, the court:

(1) may require or allow the examination to be done on an outpatient basis; and

(2) if an outpatient examination is authorized, shall set bail for the defendant or authorize release of the defendant on recognizance.

3–106.

(b) [If] EXCEPT IN A CAPITAL CASE, IF, after a hearing, the court finds that the defendant is incompetent to stand trial but is not dangerous, as a result of a mental disorder or [mental retardation] INTELLECTUAL DISABILITY, to self or the person or property of others, the court may set bail for the defendant or authorize release of the defendant on recognizance.

3–107.

(a) Whether or not the defendant is confined and unless the State petitions the court for extraordinary cause to extend the time, the court shall dismiss the charge against a defendant found incompetent to stand trial under this subtitle:

(1) **WHEN CHARGED WITH A CAPITAL OFFENSE, AFTER THE EXPIRATION OF 10 YEARS;**

(2) when charged with a felony or a crime of violence as defined under § 14–101 of the Criminal Law Article, after the lesser of the expiration of 5 years or the maximum sentence for the most serious offense charged; or

[(2)] (3) when charged with an offense not covered under item (1) **OR (2)** of this subsection, after the lesser of the expiration of 3 years or the maximum sentence for the most serious offense charged.

4–204.

(b) Except for a sentencing proceeding under **§ 2–303 OR** § 2–304 of the Criminal Law Article:

(1) the distinction between an accessory before the fact and a principal is abrogated; and

(2) an accessory before the fact may be charged, tried, convicted, and sentenced as a principal.

5–101.

(c) A defendant may not be released on personal recognizance if the defendant is charged with:

(1) a crime listed in § 5–202(d) of this title after having been convicted of a crime listed in § 5–202(d) of this title; or

(2) a crime punishable by **DEATH OR** life imprisonment without parole.

7–101.

This title applies to a person convicted in any court in the State who is:

(1) confined under sentence of **DEATH OR** imprisonment; or

(2) on parole or probation.

7–103.

(b) (1) Unless extraordinary cause is shown, **IN A CASE IN WHICH A SENTENCE OF DEATH HAS NOT BEEN IMPOSED**, a petition under this subtitle may not be filed more than 10 years after the sentence was imposed.

(2) IN A CASE IN WHICH A SENTENCE OF DEATH HAS BEEN IMPOSED, SUBTITLE 2 OF THIS TITLE GOVERNS THE TIME OF FILING A PETITION.

7–107.

(b) (1) In a case in which a person challenges the validity of confinement under a sentence of **DEATH OR** imprisonment by seeking the writ of habeas corpus or the writ of coram nobis or by invoking a common law or statutory remedy other than this title, a person may not appeal to the Supreme Court of Maryland or the Appellate Court of Maryland.

(2) This subtitle does not bar an appeal to the Appellate Court of Maryland:

(i) in a habeas corpus proceeding begun under § 9–110 of this article; or

(ii) in any other proceeding in which a writ of habeas corpus is sought for a purpose other than to challenge the legality of a conviction of a crime or sentence of **DEATH OR** imprisonment for the conviction of the crime, including confinement as a result of a proceeding under Title 4 of the Correctional Services Article.

SUBTITLE 2. PROCEEDINGS AFTER DEATH SENTENCES.

7–201.

(A) SUBJECT TO SUBSECTION (B) OF THIS SECTION, IN A CASE IN WHICH A SENTENCE OF DEATH HAS BEEN IMPOSED, THE CIRCUIT COURT MAY NOT EXERCISE JURISDICTION OVER A PROCEEDING UNDER THIS TITLE UNLESS THE PETITION IS FILED WITHIN 210 DAYS AFTER:

(1) THE SUPREME COURT OF THE UNITED STATES PASSES AN ORDER DENYING A PETITION FOR A WRIT OF CERTIORARI;

(2) THE SUPREME COURT OF THE UNITED STATES MAKES A DECISION AFFIRMING THE SENTENCE OF DEATH; OR

(3) IF NO REVIEW IS SOUGHT, THE TIME FOR SEEKING REVIEW BY THE SUPREME COURT OF THE UNITED STATES EXPIRES.

(B) THE CIRCUIT COURT MAY EXTEND THE PERIOD WITHIN WHICH THE PETITION SHALL BE FILED IF GOOD CAUSE FOR THE EXTENSION IS SHOWN.

7–202.

NOTWITHSTANDING ANY OTHER LAW AND SUBJECT TO § 7–203 OF THIS

SUBTITLE, A WARRANT OF EXECUTION SHALL BE STAYED FOR 210 DAYS AFTER:

(1) THE SUPREME COURT OF THE UNITED STATES PASSES AN ORDER DENYING ANY PETITION FOR A WRIT OF CERTIORARI;

(2) THE SUPREME COURT OF THE UNITED STATES MAKES A DECISION AFFIRMING THE SENTENCE OF DEATH; OR

(3) IF NO REVIEW IS SOUGHT, THE TIME FOR SEEKING REVIEW BY THE SUPREME COURT OF THE UNITED STATES EXPIRES.

7-203.

(A) A DEFENDANT IN A CASE IN WHICH A SENTENCE OF DEATH HAS BEEN IMPOSED MAY WAIVE THE RIGHT TO FILE A PETITION UNDER THIS TITLE BEFORE THE EXPIRATION OF THE 210-DAY PERIOD ESTABLISHED IN § 7-201 OF THIS SUBTITLE IF THE WAIVER IS KNOWING, VOLUNTARY, INTELLIGENT, AND IN WRITING.

(B) A DEFENDANT IN A CASE IN WHICH A SENTENCE OF DEATH HAS BEEN IMPOSED MAY REVOKE A WAIVER UNDER SUBSECTION (A) OF THIS SECTION NOT LATER THAN 15 DAYS BEFORE THE SCHEDULED DATE OF EXECUTION BY:

(1) FILING A PETITION FOR POSTCONVICTION RELIEF UNDER THIS TITLE; OR

(2) WITHDRAWING THE WAIVER IN WRITING.

(C) A WAIVER OF THE RIGHT TO FILE A PETITION UNDER THIS TITLE BEFORE THE EXPIRATION OF THE 210-DAY PERIOD ESTABLISHED IN § 7-201 OF THIS SUBTITLE ENDS THE STATE POSTCONVICTION REVIEW PROCESS FOR PURPOSES OF § 3-902 OF THE CORRECTIONAL SERVICES ARTICLE.

(D) (1) THE REVOCATION OF A WAIVER UNDER SUBSECTION (B)(1) OF THIS SECTION CONTINUES THE STATE POSTCONVICTION REVIEW PROCESS FOR PURPOSES OF § 3-902 OF THE CORRECTIONAL SERVICES ARTICLE.

(2) THE REVOCATION OF A WAIVER UNDER SUBSECTION (B)(2) OF THIS SECTION CONTINUES THE STATE POSTCONVICTION REVIEW PROCESS FOR PURPOSES OF § 3-902 OF THE CORRECTIONAL SERVICES ARTICLE UNTIL THE EARLIER OF:

(I) THE FILING OF A PETITION FOR POSTCONVICTION RELIEF;
OR

(II) THE EXPIRATION OF THE 210-DAY PERIOD ESTABLISHED IN
§ 7-201 OF THIS SUBTITLE.

7-204.

(A) (1) THE DATE FOR A HEARING ON A PETITION FILED IN A CASE IN
WHICH A SENTENCE OF DEATH HAS BEEN IMPOSED SHALL:

(I) BE SET WITHIN 30 DAYS AFTER THE DAY ON WHICH THE
PETITION IS FILED; AND

(II) OCCUR WITHIN 90 DAYS AFTER THE DAY ON WHICH THE
PETITION IS FILED.

(2) AFTER THE HEARING DATE IS SET UNDER PARAGRAPH (1)(I) OF
THIS SUBSECTION, THE COURT MAY NOT CHANGE THE DATE UNLESS A PARTY FILES
A MOTION REQUESTING THE CHANGE AND SHOWS GOOD CAUSE FOR THE CHANGE.

(3) THE COURT SHALL ISSUE A DECISION ON A PETITION FILED IN A
CASE IN WHICH A SENTENCE OF DEATH HAS BEEN IMPOSED WITHIN 90 DAYS AFTER
THE HEARING ON THE PETITION.

(B) A PARTY MAY ENFORCE THIS SECTION THROUGH THE FILING OF A
PETITION FOR WRIT OF MANDAMUS IN THE SUPREME COURT OF MARYLAND.

8-108.

(A) THE REVIEW OF A SENTENCE OF DEATH IS GOVERNED BY TITLE 2,
SUBTITLE 4 OF THE CRIMINAL LAW ARTICLE.

(B) A REVIEW PANEL MAY NOT INCREASE A SENTENCE TO THE SENTENCE
OF DEATH.

11-404.

(A) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, A VICTIM'S
REPRESENTATIVE HAS THE SAME RIGHT TO ADDRESS THE JURY IN A DEATH
PENALTY SENTENCING AS A VICTIM'S REPRESENTATIVE HAS TO ADDRESS A COURT
UNDER § 11-403 OF THIS SUBTITLE.

(B) (1) ON MOTION OF A DEFENDANT OR THE STATE OR ON THE COURT'S
OWN INITIATIVE, THE COURT IN A DEATH PENALTY SENTENCING MAY HOLD A

1 HEARING OUTSIDE THE PRESENCE OF THE JURY TO DETERMINE WHETHER A
2 VICTIM'S REPRESENTATIVE MAY PRESENT AN ORAL ADDRESS TO THE JURY.

3 (2) IF THE COURT DETERMINES THAT PART OF A VICTIM'S
4 REPRESENTATIVE'S ORAL ADDRESS WILL BE SO UNDULY PREJUDICIAL THAT IT
5 RENDERS THE JURY SENTENCING PROCEEDING FUNDAMENTALLY UNFAIR, THE
6 COURT MAY LIMIT THE PREJUDICIAL PORTION OF THE ORAL ADDRESS.

7 (C) A VICTIM'S REPRESENTATIVE WHO HAS BEEN DENIED A RIGHT
8 PROVIDED UNDER THIS SECTION MAY FILE AN APPLICATION FOR LEAVE TO APPEAL
9 IN THE MANNER PROVIDED UNDER § 11-103 OF THIS TITLE.

10 **Article – Criminal Law**

11 2-201.

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

14 (i) **DEATH;**

15 (II) imprisonment for life without the possibility of parole; or

16 [(ii)] (III) imprisonment for life.

17 (2) Unless a **SENTENCE OF DEATH IS IMPOSED IN COMPLIANCE WITH**
18 **§ 2-202 OF THIS SUBTITLE AND SUBTITLE 3 OF THIS TITLE, OR** A sentence of
19 imprisonment for life without the possibility of parole is imposed in compliance with §
20 2-203 of this subtitle and § 2-304 of this title, the sentence shall be imprisonment for life.

21 **2-202.**

22 (A) A DEFENDANT FOUND GUILTY OF MURDER IN THE FIRST DEGREE MAY
23 BE SENTENCED TO DEATH ONLY IF:

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

26 (I) THE STATE'S INTENTION TO SEEK A SENTENCE OF DEATH;
27 AND

28 (II) EACH AGGRAVATING CIRCUMSTANCE ON WHICH THE STATE
29 INTENDS TO RELY;

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

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

1. A PRINCIPAL IN THE FIRST DEGREE; OR

2. A PRINCIPAL IN THE SECOND DEGREE WHO:

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

B. WAS A MAJOR PARTICIPANT IN THE MURDER; AND

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

(3) THE SENTENCE OF DEATH IS IMPOSED IN ACCORDANCE WITH § 2-303 OF THIS TITLE.

(B) (1) IN THIS SUBSECTION, A DEFENDANT HAS AN INTELLECTUAL DISABILITY IF:

(I) THE DEFENDANT HAS SIGNIFICANTLY BELOW-AVERAGE INTELLECTUAL FUNCTIONING AS SHOWN BY AN INTELLIGENCE QUOTIENT OF 70 OR BELOW ON AN INDIVIDUALLY ADMINISTERED INTELLIGENCE QUOTIENT TEST AND AN IMPAIRMENT IN ADAPTIVE BEHAVIOR; AND

(II) THE INTELLECTUAL DISABILITY WAS MANIFEST BEFORE THE AGE OF 22 YEARS.

(2) A DEFENDANT MAY NOT BE SENTENCED TO DEATH BUT SHALL BE SENTENCED TO IMPRISONMENT FOR LIFE WITHOUT THE POSSIBILITY OF PAROLE SUBJECT TO THE REQUIREMENTS OF § 2-203(1) OF THIS SUBTITLE OR IMPRISONMENT FOR LIFE IF THE DEFENDANT:

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

(II) PROVES BY A PREPONDERANCE OF THE EVIDENCE THAT AT

1 THE TIME OF THE MURDER THE DEFENDANT HAD AN INTELLECTUAL DISABILITY.

2 2-301.

3 (A) THE STATE'S ATTORNEY SHALL FILE WITH THE CLERK OF THE
4 SUPREME COURT OF MARYLAND A COPY OF EACH:

5 (1) NOTICE OF INTENT TO SEEK A SENTENCE OF DEATH; AND

6 (2) WITHDRAWAL OF NOTICE OF INTENT TO SEEK A SENTENCE OF
7 DEATH.

8 (B) THE FAILURE OF A STATE'S ATTORNEY TO GIVE TIMELY NOTICE TO THE
9 CLERK OF THE SUPREME COURT OF MARYLAND UNDER SUBSECTION (A)(1) OF THIS
10 SECTION DOES NOT AFFECT THE VALIDITY OF A NOTICE OF INTENT TO SEEK A
11 SENTENCE OF DEATH THAT IS SERVED ON THE DEFENDANT IN A TIMELY MANNER.

12 2-303.

13 (A) (1) IN THIS SECTION, "CORRECTIONAL FACILITY" HAS THE MEANING
14 STATED IN § 1-101 OF THIS ARTICLE.

15 (2) "CORRECTIONAL FACILITY" INCLUDES:

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

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

20 (B) IF THE STATE GAVE NOTICE UNDER § 2-202(A)(1) OF THIS TITLE, A
21 SEPARATE SENTENCING PROCEEDING SHALL BE HELD AS SOON AS PRACTICABLE
22 AFTER A DEFENDANT IS FOUND GUILTY OF MURDER IN THE FIRST DEGREE TO
23 DETERMINE WHETHER THE DEFENDANT SHALL BE SENTENCED TO DEATH.

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

26 (1) BEFORE THE JURY THAT DETERMINED THE DEFENDANT'S GUILT;

27 (2) BEFORE A JURY IMPANELED FOR PURPOSES OF THE PROCEEDING
28 IF:

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

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

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

7 (IV) A COURT OF COMPETENT JURISDICTION REMANDED THE
8 CASE FOR RESENTENCING FOLLOWING A REVIEW OF THE ORIGINAL SENTENCE OF
9 DEATH; OR

10 (3) BEFORE THE COURT, IF THE DEFENDANT WAIVES A JURY
11 SENTENCING PROCEEDING.

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

14 (I) IN WHICH THE DEFENDANT IS BEING TRIED FOR A CRIME
15 FOR WHICH THE DEATH PENALTY MAY BE IMPOSED; OR

16 (II) THAT IS HELD UNDER THIS SECTION.

17 (2) THE ALTERNATE JURORS SHALL BE RETAINED THROUGHOUT THE
18 PROCEEDINGS UNDER ANY RESTRICTIONS THAT THE JUDGE IMPOSES.

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

24 (4) AN ALTERNATE JUROR MAY NOT REPLACE A JUROR WHO IS
25 DISCHARGED DURING THE ACTUAL DELIBERATIONS OF THE JURY ON THE GUILT OR
26 INNOCENCE OF THE DEFENDANT OR ON SENTENCING.

27 (E) (1) THE FOLLOWING TYPES OF EVIDENCE ARE ADMISSIBLE IN A
28 SENTENCING PROCEEDING:

29 (I) EVIDENCE RELATING TO A MITIGATING CIRCUMSTANCE
30 THAT IS LISTED UNDER SUBSECTION (H) OF THIS SECTION;

(II) EVIDENCE RELATING TO AN AGGRAVATING CIRCUMSTANCE:

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

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

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

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

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

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

(3) THE STATE AND THE DEFENDANT OR COUNSEL FOR THE DEFENDANT MAY PRESENT ARGUMENT FOR OR AGAINST THE SENTENCE OF DEATH.

(F) (1) AFTER THE EVIDENCE IS PRESENTED TO THE JURY IN THE SENTENCING PROCEEDING, THE COURT SHALL:

(I) GIVE ANY APPROPRIATE INSTRUCTIONS ALLOWED BY LAW; AND

(II) INSTRUCT THE JURY AS TO:

1. THE FINDINGS THAT THE JURY MUST MAKE TO DETERMINE WHETHER THE DEFENDANT SHALL BE SENTENCED TO DEATH, IMPRISONMENT FOR LIFE WITHOUT THE POSSIBILITY OF PAROLE, OR IMPRISONMENT FOR LIFE; AND

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

(2) THE COURT MAY NOT INSTRUCT THE JURY THAT THE JURY IS TO

1 ASSUME THAT A SENTENCE OF LIFE IMPRISONMENT IS FOR THE NATURAL LIFE OF
2 THE DEFENDANT.

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

7 (I) ONE OR MORE PERSONS COMMITTED THE MURDER OF A
8 LAW ENFORCEMENT OFFICER WHILE THE OFFICER WAS PERFORMING THE
9 OFFICER'S DUTIES;

10 (II) THE DEFENDANT COMMITTED THE MURDER WHILE
11 CONFINED IN A CORRECTIONAL FACILITY;

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

15 1. A GUARD OR OFFICER OF A CORRECTIONAL FACILITY;
16 OR

17 2. A LAW ENFORCEMENT OFFICER;

18 (IV) THE VICTIM WAS TAKEN OR ATTEMPTED TO BE TAKEN IN
19 THE COURSE OF AN ABDUCTION, A KIDNAPPING, OR AN ATTEMPT TO ABDUCT OR
20 KIDNAP;

21 (V) THE VICTIM WAS A CHILD ABDUCTED IN VIOLATION OF §
22 3-503(A)(1) OF THIS ARTICLE;

23 (VI) THE DEFENDANT COMMITTED THE MURDER UNDER AN
24 AGREEMENT OR CONTRACT FOR REMUNERATION OR PROMISE OF REMUNERATION
25 TO COMMIT THE MURDER;

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

29 (VIII) THE DEFENDANT COMMITTED THE MURDER WHILE UNDER
30 A SENTENCE OF DEATH OR IMPRISONMENT FOR LIFE;

31 (IX) THE DEFENDANT COMMITTED MORE THAN ONE MURDER IN

1 THE FIRST DEGREE ARISING OUT OF THE SAME INCIDENT; OR

2 (X) THE DEFENDANT COMMITTED THE MURDER WHILE
3 COMMITTING OR ATTEMPTING TO COMMIT:

4 1. ARSON IN THE FIRST DEGREE;

5 2. CARJACKING OR ARMED CARJACKING;

6 3. RAPE; OR

7 4. ROBBERY UNDER § 3-402 OR § 3-403 OF THIS
8 ARTICLE.

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

11 (I) THE COURT OR JURY SHALL STATE THAT CONCLUSION IN
12 WRITING; AND

13 (II) A DEATH SENTENCE MAY NOT BE IMPOSED.

14 (H) (1) IN THIS SUBSECTION, "CRIME OF VIOLENCE" HAS THE MEANING
15 STATED IN § 14-101 OF THIS ARTICLE.

16 (2) IF THE COURT OR JURY FINDS BEYOND A REASONABLE DOUBT
17 THAT ONE OR MORE OF THE AGGRAVATING CIRCUMSTANCES UNDER SUBSECTION
18 (G) OF THIS SECTION EXIST, THE COURT OR JURY THEN SHALL CONSIDER WHETHER
19 ANY OF THE FOLLOWING MITIGATING CIRCUMSTANCES EXIST BASED ON A
20 PREPONDERANCE OF THE EVIDENCE:

21 (I) THE DEFENDANT PREVIOUSLY HAS NOT:

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

23 2. ENTERED A GUILTY PLEA OR A PLEA OF NOLO
24 CONTENDERE TO A CHARGE OF A CRIME OF VIOLENCE; OR

25 3. RECEIVED PROBATION BEFORE JUDGMENT FOR A
26 CRIME OF VIOLENCE;

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

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

4 (IV) THE MURDER WAS COMMITTED WHILE THE CAPACITY OF
5 THE DEFENDANT TO APPRECIATE THE CRIMINALITY OF THE DEFENDANT'S
6 CONDUCT OR TO CONFORM THAT CONDUCT TO THE REQUIREMENTS OF LAW WAS
7 SUBSTANTIALLY IMPAIRED DUE TO EMOTIONAL DISTURBANCE, MENTAL DISORDER,
8 OR MENTAL INCAPACITY;

9 (V) THE DEFENDANT WAS OF A YOUTHFUL AGE AT THE TIME OF
10 THE MURDER;

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

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

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

18 (I) (1) IF THE COURT OR JURY FINDS THAT ONE OR MORE OF THE
19 MITIGATING CIRCUMSTANCES UNDER SUBSECTION (H) OF THIS SECTION EXIST, THE
20 COURT OR JURY SHALL DETERMINE BY A PREPONDERANCE OF THE EVIDENCE
21 WHETHER THE AGGRAVATING CIRCUMSTANCES UNDER SUBSECTION (G) OF THIS
22 SECTION OUTWEIGH THE MITIGATING CIRCUMSTANCES.

23 (2) IF THE COURT OR JURY FINDS THAT THE AGGRAVATING
24 CIRCUMSTANCES:

25 (I) OUTWEIGH THE MITIGATING CIRCUMSTANCES, A DEATH
26 SENTENCE SHALL BE IMPOSED; OR

27 (II) DO NOT OUTWEIGH THE MITIGATING CIRCUMSTANCES, A
28 DEATH SENTENCE MAY NOT BE IMPOSED.

29 (3) IF THE DETERMINATION IS BY A JURY, A DECISION TO IMPOSE A
30 DEATH SENTENCE MUST BE UNANIMOUS AND SHALL BE SIGNED BY THE JURY
31 FOREPERSON.

1 **(4) A COURT OR JURY SHALL PUT ITS DETERMINATION IN WRITING**
2 **AND SHALL STATE SPECIFICALLY:**

3 **(I) EACH AGGRAVATING CIRCUMSTANCE FOUND;**

4 **(II) EACH MITIGATING CIRCUMSTANCE FOUND;**

5 **(III) WHETHER ANY AGGRAVATING CIRCUMSTANCES FOUND**
6 **UNDER SUBSECTION (G) OF THIS SECTION OUTWEIGH THE MITIGATING**
7 **CIRCUMSTANCES FOUND UNDER SUBSECTION (H) OF THIS SECTION;**

8 **(IV) WHETHER THE AGGRAVATING CIRCUMSTANCES FOUND**
9 **UNDER SUBSECTION (G) OF THIS SECTION DO NOT OUTWEIGH THE MITIGATING**
10 **CIRCUMSTANCES FOUND UNDER SUBSECTION (H) OF THIS SECTION; AND**

11 **(V) THE SENTENCE DETERMINED UNDER SUBSECTION (G)(2) OF**
12 **THIS SECTION OR PARAGRAPHS (1) AND (2) OF THIS SUBSECTION.**

13 **(J) (1) IF A JURY DETERMINES THAT A DEATH SENTENCE SHALL BE**
14 **IMPOSED UNDER THE PROVISIONS OF THIS SECTION, THE COURT SHALL IMPOSE A**
15 **DEATH SENTENCE.**

16 **(2) IF, WITHIN A REASONABLE TIME, THE JURY IS UNABLE TO AGREE**
17 **AS TO WHETHER A DEATH SENTENCE SHALL BE IMPOSED, THE COURT MAY NOT**
18 **IMPOSE A DEATH SENTENCE.**

19 **(3) IF THE SENTENCING PROCEEDING IS CONDUCTED BEFORE A**
20 **COURT WITHOUT A JURY, THE COURT SHALL DETERMINE WHETHER A DEATH**
21 **SENTENCE SHALL BE IMPOSED UNDER THE PROVISIONS OF THIS SECTION.**

22 **(4) IF THE COURT OR JURY DETERMINES THAT A DEATH SENTENCE**
23 **MAY NOT BE IMPOSED AND THE STATE GAVE NOTICE UNDER § 2-203(1) OF THIS**
24 **TITLE, A DETERMINATION SHALL BE MADE CONCERNING IMPRISONMENT FOR LIFE**
25 **WITHOUT THE POSSIBILITY OF PAROLE UNDER § 2-304 OF THIS SUBTITLE.**

26 **(5) IF THE COURT OR JURY DETERMINES THAT A DEATH SENTENCE**
27 **MAY NOT BE IMPOSED AND IF THE STATE DID NOT GIVE NOTICE UNDER § 2-203(1)**
28 **OF THIS TITLE, THE COURT SHALL IMPOSE A SENTENCE OF IMPRISONMENT FOR**
29 **LIFE.**

30 **(K) (1) IMMEDIATELY AFTER THE IMPOSITION OF A DEATH SENTENCE:**

31 **(I) THE CLERK OF THE COURT IN WHICH SENTENCE IS**

1 IMPOSED, IF DIFFERENT FROM THE COURT WHERE THE INDICTMENT OR
2 INFORMATION WAS FILED, SHALL CERTIFY THE PROCEEDINGS TO THE CLERK OF
3 THE COURT WHERE THE INDICTMENT OR INFORMATION WAS FILED; AND

4 (II) THE CLERK OF THE COURT WHERE THE INDICTMENT OR
5 INFORMATION WAS FILED SHALL COPY THE DOCKET ENTRIES IN THE
6 INCARCERATED INDIVIDUAL'S CASE, SIGN THE COPIES, AND DELIVER THE COPIES
7 TO THE GOVERNOR.

8 (2) THE DOCKET ENTRIES SHALL SHOW FULLY THE SENTENCE OF
9 THE COURT AND THE DATE THAT THE SENTENCE WAS ENTERED.

10 (L) IF A DEFENDANT IS SENTENCED TO DEATH, THE COURT BEFORE WHICH
11 THE DEFENDANT IS TRIED AND CONVICTED SHALL SENTENCE THE DEFENDANT TO
12 DEATH BY INTRAVENOUS ADMINISTRATION OF A LETHAL QUANTITY OF AN
13 ULTRASHORT-ACTING BARBITURATE OR OTHER SIMILAR DRUG IN COMBINATION
14 WITH A CHEMICAL PARALYTIC AGENT.

15 2-304.

16 (a) (1) If the State gave notice under § 2-203(1) of this title BUT DID NOT GIVE
17 NOTICE OF INTENT TO SEEK THE DEATH PENALTY UNDER § 2-202(A)(1) OF THIS
18 TITLE, the court shall conduct a separate sentencing proceeding as soon as practicable after
19 the defendant is found guilty of murder in the first degree to determine whether the
20 defendant shall be sentenced to imprisonment for life without the possibility of parole or to
21 imprisonment for life.

22 (2) IF THE STATE GAVE NOTICE UNDER BOTH §§ 2-202(A)(1) AND
23 2-203(1) OF THIS TITLE, BUT THE COURT OR JURY DETERMINES THAT THE DEATH
24 SENTENCE MAY NOT BE IMPOSED, THE COURT OR JURY SHALL DETERMINE
25 WHETHER THE DEFENDANT SHALL BE SENTENCED TO IMPRISONMENT FOR LIFE
26 WITHOUT THE POSSIBILITY OF PAROLE OR TO IMPRISONMENT FOR LIFE.

27 2-305.

28 The Supreme Court of Maryland may adopt:

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

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

33 SUBTITLE 4. REVIEW BY SUPREME COURT OF MARYLAND.

1 **2-401.**

2 (A) (1) AFTER A DEATH SENTENCE IS IMPOSED AND THE JUDGMENT
3 BECOMES FINAL, THE SUPREME COURT OF MARYLAND SHALL REVIEW THE
4 SENTENCE ON THE RECORD.

5 (2) THE SUPREME COURT OF MARYLAND SHALL CONSOLIDATE AN
6 APPEAL FROM THE VERDICT WITH THE SENTENCE REVIEW.

7 (B) THE CLERK OF THE TRIAL COURT SHALL SEND TO THE CLERK OF THE
8 SUPREME COURT OF MARYLAND:

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

11 (2) THE DETERMINATION AND WRITTEN FINDINGS OF THE COURT OR
12 JURY; AND

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

14 (I) IS IN THE FORM OF A STANDARD QUESTIONNAIRE SUPPLIED
15 BY THE SUPREME COURT OF MARYLAND; AND

16 (II) INCLUDES A RECOMMENDATION BY THE TRIAL COURT AS TO
17 WHETHER THE DEATH SENTENCE IS JUSTIFIED.

18 (C) THE DEFENDANT AND THE STATE MAY SUBMIT BRIEFS AND PRESENT
19 ORAL ARGUMENTS TO THE SUPREME COURT OF MARYLAND WITHIN THE TIME
20 ALLOWED BY THE SUPREME COURT OF MARYLAND.

21 (D) (1) IN ADDITION TO ANY ERROR PROPERLY BEFORE THE SUPREME
22 COURT OF MARYLAND ON APPEAL, THE SUPREME COURT OF MARYLAND SHALL
23 CONSIDER THE IMPOSITION OF THE DEATH SENTENCE.

24 (2) WITH REGARD TO THE DEATH SENTENCE, THE SUPREME COURT
25 OF MARYLAND SHALL DETERMINE WHETHER:

26 (I) THE IMPOSITION OF THE DEATH SENTENCE WAS
27 INFLUENCED BY PASSION, PREJUDICE, OR ANY OTHER ARBITRARY FACTOR;

28 (II) THE EVIDENCE SUPPORTS THE FINDING BY THE COURT OR
29 JURY OF A STATUTORY AGGRAVATING CIRCUMSTANCE UNDER § 2-303(G) OF THIS

TITLE; AND

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

(3) IN ADDITION TO ITS REVIEW UNDER ANY DIRECT APPEAL, WITH REGARD TO THE DEATH SENTENCE, THE SUPREME COURT OF MARYLAND SHALL:

(I) AFFIRM THE DEATH SENTENCE;

(II) SET THE DEATH SENTENCE ASIDE AND REMAND THE CASE FOR A NEW SENTENCING PROCEEDING UNDER § 2–303 OF THIS TITLE; OR

(III) SET THE DEATH SENTENCE ASIDE AND REMAND THE CASE FOR MODIFICATION OF THE SENTENCE TO IMPRISONMENT FOR LIFE.

(E) THE SUPREME COURT OF MARYLAND MAY ADOPT RULES OF PROCEDURE FOR THE EXPEDITED REVIEW OF DEATH SENTENCES UNDER THIS SECTION.

14–101.

(a) In this section, “crime of violence” means:

(1) abduction;

(2) arson in the first degree;

(3) kidnapping;

(4) manslaughter, except involuntary manslaughter;

(5) mayhem;

(6) maiming, as previously proscribed under former Article 27, §§ 385 and 386 of the Code;

(7) murder;

(8) rape;

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

(10) carjacking;

- 1 (11) armed carjacking;
- 2 (12) sexual offense in the first degree;
- 3 (13) sexual offense in the second degree;
- 4 (14) use of a firearm in the commission of a felony except possession with
5 intent to distribute a controlled dangerous substance under § 5–602(2) of this article, or
6 other crime of violence;
- 7 (15) child abuse in the first degree under § 3–601 of this article;
- 8 (16) sexual abuse of a minor under § 3–602 of this article if:
- 9 (i) 1. the victim is under the age of 13 years and the offender is
10 an adult at the time of the offense; or
- 11 2. the offender is at least 21 years old and the victim is under
12 the age of 16 years; and
- 13 (ii) the offense involved:
- 14 1. vaginal intercourse, as defined in § 3–301 of this article;
- 15 2. a sexual act, as defined in § 3–301 of this article;
- 16 3. an act in which a part of the offender’s body penetrates,
17 however slightly, into the victim’s genital opening or anus; or
- 18 4. the intentional touching of the victim’s or the offender’s
19 genital, anal, or other intimate area for sexual arousal, gratification, or abuse;
- 20 (17) home invasion under § 6–202(b) of this article;
- 21 (18) a felony offense under Title 3, Subtitle 11 of this article;
- 22 (19) an attempt to commit any of the crimes described in items (1) through
23 (18) of this subsection;
- 24 (20) continuing course of conduct with a child under § 3–315 of this article;
- 25 (21) assault in the first degree;
- 26 (22) assault with intent to murder;
- 27 (23) assault with intent to rape;

(24) assault with intent to rob;

(25) assault with intent to commit a sexual offense in the first degree; and

(26) assault with intent to commit a sexual offense in the second degree.

(b) (1) Except as provided in subsection (f) of this section, on conviction for a fourth time of a crime of violence, a person who has served three separate terms of confinement in a correctional facility as a result of three separate convictions of any crime of violence shall be sentenced to life imprisonment without the possibility of parole.

(2) Notwithstanding any other law, the provisions of this subsection are mandatory.

(c) (1) Except as provided in subsection (f) of this section, on conviction for a third time of a crime of violence, a person shall be sentenced to imprisonment for the term allowed by law but not less than 25 years, if the person:

(i) has been convicted of a crime of violence on two prior separate occasions:

1. in which the second or succeeding crime is committed after there has been a charging document filed for the preceding occasion; and

2. for which the convictions do not arise from a single incident; and

(ii) has served at least one term of confinement in a correctional facility as a result of a conviction of a crime of violence.

(2) The court may not suspend all or part of the mandatory 25-year sentence required under this subsection.

(3) A person sentenced under this subsection is not eligible for parole except in accordance with the provisions of § 4–305 of the Correctional Services Article.

(d) (1) (i) Except as provided in paragraph (2) of this subsection, on conviction for a second time of a crime of violence committed on or after October 1, 1994, a person shall be sentenced to imprisonment for the term allowed by law, but not less than 10 years, if the person:

1. has been convicted on a prior occasion of a crime of violence, including a conviction for a crime committed before October 1, 1994; and

2. served a term of confinement in a correctional facility for that conviction.

(ii) The court may not suspend all or part of the mandatory 10-year sentence required under this paragraph.

(2) (i) On conviction for a second time of a crime of violence committed on or after October 1, 2018, a person shall be sentenced to imprisonment for the term allowed by law, but not less than 10 years, if the person:

1. has been convicted on a prior occasion of a crime of violence, including a conviction for a crime committed before October 1, 2018; and

2. served a term of confinement in a correctional facility for that conviction.

(ii) The court may not suspend all or part of the mandatory 10-year sentence required under this paragraph.

(iii) A person sentenced under this paragraph is not eligible for parole except in accordance with the provisions of § 4-305 of the Correctional Services Article.

(e) If the State intends to proceed against a person as a subsequent offender under this section, it shall comply with the procedures set forth in the Maryland Rules for the indictment and trial of a subsequent offender.

(f) (1) This subsection does not apply to a person registered or eligible for registration under Title 11, Subtitle 7 of the Criminal Procedure Article.

(2) A person sentenced under this section may petition for and be granted parole if the person:

(i) is at least 60 years old; and

(ii) has served at least 15 years of the sentence imposed under this section.

(3) The Maryland Parole Commission shall adopt regulations to implement this subsection.

(G) THIS SECTION DOES NOT APPLY IF A PERSON IS SENTENCED TO DEATH.

Article – Health – General

8–505.

(b) **[On] EXCEPT IN A CAPITAL CASE, ON** consideration of the nature of the charge, the court:

(1) May require or permit an examination to be conducted on an outpatient basis; and

(2) If an outpatient examination is authorized, shall set bail for the defendant or authorize the release of the defendant on personal recognizance.

Article – Transportation

16–812.

(a) The Administration shall disqualify any individual from driving a commercial motor vehicle for a period of 1 year if:

(1) The individual is convicted of committing any of the following offenses while driving a commercial motor vehicle:

(i) A violation of § 21–902 of this article;

(ii) A violation of a federal law or any other state’s law which is substantially similar in nature to the provisions in § 21–902 of this article;

(iii) Leaving the scene of an accident which requires disqualification as provided by the United States Secretary of Transportation;

(iv) A crime, other than a crime described in subsection (e) of this section, that is punishable by **DEATH OR** imprisonment for a term exceeding 1 year;

(v) A violation of § 25–112 of this article; or

(vi) A violation of § 2–209, § 2–503, § 2–504, § 2–505, or § 2–506 of the Criminal Law Article;

(2) The individual holds a commercial instructional permit or commercial driver’s license and is convicted of committing any of the following offenses while driving a noncommercial motor vehicle:

(i) A violation of § 21–902(a), (c), or (d) of this article;

(ii) A violation of a federal law or any other state’s law which is substantially similar in nature to the provisions in § 21–902(a), (c), or (d) of this article;

(iii) Leaving the scene of an accident which requires disqualification as provided by the United States Secretary of Transportation; or

(iv) A crime, other than a crime described in subsection (e) of this section, that is punishable by **DEATH OR** imprisonment for a term exceeding 1 year;

1 (3) The individual, while driving a commercial motor vehicle or while
2 holding a commercial instructional permit or commercial driver's license, refuses to
3 undergo testing as provided in § 16–205.1 of this title or as is required by any other state's
4 law or by federal law in the enforcement of 49 C.F.R. § 383.51 Table 1, or 49 C.F.R. §
5 392.5(a)(2);

6 (4) The individual drives or attempts to drive a commercial motor vehicle
7 while the alcohol concentration of the person's blood or breath is 0.04 or greater; or

8 (5) The individual drives a commercial motor vehicle when, as a result of
9 prior violations committed while driving a commercial motor vehicle, the driver's
10 commercial instructional permit or commercial driver's license is revoked, suspended, or
11 canceled or the driver is disqualified from driving a commercial motor vehicle.

12 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
13 October 1, 2024.