

10 AN ACT CONCERNING THE REPEAL OF THE DEATH PENALTY

20 Criminal Law – Death Penalty – Repeal

30 FOR the purpose of the safety and protection of Maryland Citizens while on the road.

40 BY repealing and reenacting, with amendments

50 Article Criminal Law

60 Section 2-201, 2-202

70 Maryland Annotated Code (2008)

80 SECTION 1: BE IT ENACTED BY THE MARYLAND STUDENT LEGISLATURE, That the  
90 Laws of Maryland read as follows:

100 §2–201.

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

- 120 (1) a deliberate, premeditated, and willful killing;
- 130 (2) committed by lying in wait;
- 140 (3) committed by poison; or
- 150 (4) committed in the perpetration of or an attempt to perpetrate:
  - 160 (i) arson in the first degree;
  - 170 (ii) burning a barn, stable, tobacco house, warehouse, or other outbuilding that:
    - 180 1. is not parcel to a dwelling; and
    - 190 2. contains cattle, goods, wares, merchandise, horses, grain, hay, or
    - 200 tobacco;
  - 210 (iii) burglary in the first, second, or third degree;
  - 220 (iv) carjacking or armed carjacking;
  - 230 (v) escape in the first degree from a State correctional facility or a local
  - 240 correctional facility;
  - 250 (vi) kidnapping under § 3-502 or § 3-503(a)(2) of this article;
  - 260 (vii) mayhem;
  - 270 (viii) rape;
  - 280 (ix) robbery under § 3-402 or § 3-403 of this article;
  - 290 (x) sexual offense in the first or second degree;
  - 300 (xi) sodomy; or
  - 310 (xii) a violation of § 4-503 of this article concerning destructive devices.

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

- 340 ~~(i) death;~~
- 350 ~~(ii) (I) imprisonment for life without the possibility of parole; or~~
- 360 ~~(iii) (II) imprisonment for life.~~
- 370 ~~(2) Unless a sentence of death is imposed in compliance with § 2-202 of this subtitle and~~
- 380 ~~Subtitle 3 of this title, or a sentence of imprisonment for life without the~~
- 390 ~~possibility of parole is imposed in compliance with § 2-203 of this~~
- 400 ~~subtitle and § 2-304 of this title, the sentence shall be imprisonment for~~
- 410 ~~life.~~

420 §2–202.

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

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

450 ~~(i) the State's intention to seek a sentence of death; and~~  
460 ~~(ii) each aggravating circumstance on which the State intends to rely;~~  
470 ~~(2) (i) with respect to § 2-303(g) of this title, except for § 2-303(g)(1)(i) and (vii)~~  
480 ~~of this title, the defendant was a principal in the first degree; or~~  
490 ~~(ii) with respect to § 2-303(g)(1)(i) of this title, a law enforcement officer, as~~  
500 ~~defined in § 2-303(a) of this title, was murdered and the defendant was:~~  
510 ~~1. a principal in the first degree; or~~  
520 ~~2. a principal in the second degree who:~~  
530 ~~A. willfully, deliberately, and with premeditation intended~~  
540 ~~the death of the law enforcement officer;~~  
550 ~~B. was a major participant in the murder; and~~  
560 ~~C. was actually present at the time and place of the murder; 570~~  
~~and~~  
580 ~~(3) the sentence of death is imposed in accordance with § 2-303 of this title.~~  
590 ~~(b) (1) In this subsection, a defendant is "mentally retarded" if:~~  
600 ~~(i) the defendant had significantly below average intellectual functioning, as~~  
610 ~~shown by an intelligence quotient of 70 or below on an individually~~  
620 ~~administered intelligence quotient test and an impairment in adaptive~~  
630 ~~behavior; and~~  
640 ~~(ii) the mental retardation was manifested before the age of 22 years.~~  
650 ~~(2) A defendant may not be sentenced to death, but shall be sentenced to imprisonment 660~~  
~~for life without the possibility of parole subject to the requirements of~~  
670 ~~§ 2-203(1) of this subtitle or imprisonment for life, if the defendant:~~  
680 ~~(i) was under the age of 18 years at the time of the murder; or~~  
690 ~~(ii) proves by a preponderance of the evidence that at the time of the murder~~  
700 ~~the defendant was mentally retarded.~~

710 **MANDATES:** Martin O'Malley, Governor of Maryland  
720 Anthony G. Brown, Lieutenant Governor of Maryland  
730 Thomas V. "Mike" Miller, Jr., President of the Maryland Senate  
740 Michael E. Busch, Speaker of the Maryland House of Delegates  
750 Edward J. Kasemeyer, Majority Leader of the Maryland Senate  
760 David R. Brinkley, Minority Leader of the Maryland Senate  
770 Brian E. Frosh, Chair, Senate Judicial Proceedings Committee  
780 Joseph F. Vallario, Jr., Chair, House of Delegates Judiciary Committee  
790 Curt Anderson, Chair, House of Delegates Criminal Justice Subcommittee

**SPONSOR**

Andrew Horn, St. Mary's College of Maryland

**CO-SPONSOR(S):**

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Charles Onwuche, St. Mary's College of Maryland  
Christopher Ingraham, St. Mary's College of Maryland  
Amir Reda, St. Mary's College of Maryland