

The Bill provides generally that the permissible sentence upon conviction of murder in the first degree shall be either death or imprisonment for life. The procedure for imposition of the death penalty is accomplished in a bifurcated trial. Upon conviction of a defendant of first degree murder, the court conducts a separate sentencing proceeding to determine whether the defendant should be sentenced to death or to life imprisonment. The proceeding is to be conducted by the trial judge before the trial jury as soon as practical, but if a jury trial has been waived or if the defendant has pleaded guilty, the sentencing proceeding may be conducted by a jury impaneled for that purpose, unless waived by the defendant. 2

At the sentencing proceeding, evidence may be presented as to any matter that the court deems relevant to sentence, including matters relating to any of the aggravating or mitigating circumstances enumerated in the statute. Any such evidence deemed by the court to have probative value may be received, regardless of admissibility under the exclusionary rules of evidence, although no evidence may be admitted which was secured in violation of the federal or state constitutions. Argument may be presented by the state and the defendant or his counsel for or against the death sentence.

After the evidence is heard in the sentencing proceeding the jury is to render an advisory sentence to the trial judge based upon the following matters:

1. Whether sufficient aggravating circumstances exist as enumerated under the Law. These aggravating circumstances are limited to the following:

a) The defendant committed the murder at a time when he was confined or under sentence of confinement to any correctional institution in this State.

b) The victim was a law enforcement officer as defined in Article 27, Section 727, an officer serving in a probationary status, a parole and probation officer, or a law enforcement officer of a jurisdiction outside of Maryland who was murdered during the performance of his duty; or the defendant committed the murder in furtherance of an attempt to escape from or evade the lawful custody, arrest or detention of or by a correctional officer or guard;

c) The victim was a hostage taken or attempted to be taken in the course of a kidnapping or an attempt to kidnap;