

(C) (1) IF A STATE'S ATTORNEY FILES OR WITHDRAWS A NOTICE OF INTENT TO SEEK A SENTENCE OF DEATH, THE STATE'S ATTORNEY SHALL FILE A COPY OF THE NOTICE OR WITHDRAWAL WITH THE CLERK OF THE COURT OF APPEALS.

(2) THE VALIDITY OF A NOTICE OF INTENT TO SEEK A SENTENCE OF DEATH THAT IS SERVED ON A DEFENDANT IN A TIMELY MANNER SHALL IN NO WAY BE AFFECTED BY THE STATE'S ATTORNEY'S FAILURE TO FILE A COPY OF THE DEATH NOTICE IN A TIMELY MANNER WITH THE CLERK OF THE COURT OF APPEALS.

~~[(e)](E)~~ (D) A person found guilty of murder in the second degree shall be sentenced to imprisonment for not more than 30 years.

~~[(d)](F)~~ (E) Except as provided by § 413 of this article, the court shall decide whether to impose a sentence of life imprisonment or life imprisonment without the possibility of parole.

~~[(e)](G)~~ (F) (1) In this section, the following terms have the meanings indicated.

(2) "Imprisonment for life without the possibility of parole" means imprisonment for the natural life of an inmate under the custody of a correctional institution, including the Patuxent Institution.

(3) "Mentally retarded" means the individual has significantly subaverage intellectual functioning as evidenced by an intelligence quotient of 70 or below on an individually administered intelligence quotient test and impairment in adaptive behavior, and the mental retardation is manifested before the individual attains the age of 22.

~~[(f)](H)~~ (G) (1) If a person found guilty of murder in the first degree was, at the time the murder was committed, less than 18 years old or if the person establishes by a preponderance of the evidence that the person was, at the time the murder was committed, mentally retarded, the person shall be sentenced to imprisonment for life or imprisonment for life without the possibility of parole and may not be sentenced to death.

(2) The sentence shall be imprisonment for life unless the State notified the person in writing at least 30 days prior to trial that the State intended to seek a sentence of imprisonment for life without the possibility of parole under this section or § 413 of this article.

413.

(a) If a person is found guilty of murder in the first degree, and if the State had given the notice required under § 412(b), a separate sentencing proceeding shall be conducted as soon as practicable after the trial has been completed to determine whether he shall be sentenced to death.

(b) This proceeding shall be conducted:

- (1) Before the jury that determined the defendant's guilt; or
- (2) Before a jury impaneled for the purpose of the proceeding if:
  - (i) The defendant was convicted upon a plea of guilty;