

- 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) LIMITATIONS.

(1) IN THIS SUBSECTION, A DEFENDANT IS "MENTALLY RETARDED" IF:

(I) THE DEFENDANT HAD 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 MENTAL RETARDATION WAS MANIFESTED 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 THE TIME OF THE MURDER THE DEFENDANT WAS MENTALLY RETARDED.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 27, §§ 413(e)(1) and 412(f)(1) and (3), (g)(1), and, as it related to limitations on sentencing to death, the second sentence of (b).

Subsection (a)(2) of this section is revised as a substantive provision based on the definitions of "defendant" and "person" in former Art. 27, § 413(e)(1) that limited who might receive a death sentence.

Defined term: "Imprisonment for life without the possibility of parole" § 2-101 2-203. SAME — SENTENCE OF IMPRISONMENT FOR LIFE WITHOUT THE POSSIBILITY OF PAROLE.

A DEFENDANT FOUND GUILTY OF MURDER IN THE FIRST DEGREE MAY BE SENTENCED TO IMPRISONMENT FOR LIFE WITHOUT THE POSSIBILITY OF PAROLE ONLY IF: