

"imprisonment for life" is an aggravating circumstance for considering the death penalty, committing a murder while under a sentence of "imprisonment for life without the possibility of parole", a defined term, is not specifically included as an aggravating circumstance. The General Assembly may wish to address this apparent omission.

Defined terms: "Correctional facility" § 1-101

"Imprisonment for life without the possibility of parole" § 2-101

"Inmate" § 1-101

"Person" § 1-101

2-304. SAME — SENTENCING PROCEDURE IMPRISONMENT FOR LIFE WITHOUT THE POSSIBILITY OF PAROLE.

(A) IN GENERAL.

(1) IF THE STATE GAVE NOTICE UNDER § 2-203(1) OF THIS TITLE, BUT DID NOT GIVE NOTICE OF INTENT TO SEEK THE DEATH PENALTY UNDER § 2-202(A)(1) OF THIS TITLE, THE COURT SHALL CONDUCT A SEPARATE SENTENCING PROCEEDING AS SOON AS PRACTICABLE AFTER THE DEFENDANT IS FOUND GUILTY OF MURDER IN THE FIRST DEGREE TO DETERMINE WHETHER THE DEFENDANT SHALL BE SENTENCED TO IMPRISONMENT FOR LIFE WITHOUT THE POSSIBILITY OF PAROLE OR TO IMPRISONMENT FOR LIFE.

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

(B) FINDINGS.

(1) A DETERMINATION BY A JURY TO IMPOSE A SENTENCE OF IMPRISONMENT FOR LIFE WITHOUT THE POSSIBILITY OF PAROLE MUST BE UNANIMOUS.

(2) IF THE JURY FINDS THAT A SENTENCE OF IMPRISONMENT FOR LIFE WITHOUT THE POSSIBILITY OF PAROLE SHALL BE IMPOSED, THE COURT SHALL IMPOSE A SENTENCE OF IMPRISONMENT FOR LIFE WITHOUT THE POSSIBILITY OF PAROLE.

(3) IF, WITHIN A REASONABLE TIME, THE JURY IS UNABLE TO AGREE TO IMPOSITION OF A SENTENCE OF IMPRISONMENT FOR LIFE WITHOUT THE POSSIBILITY OF PAROLE, THE COURT SHALL IMPOSE A SENTENCE OF IMPRISONMENT FOR LIFE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 27, § 413(k)(5) through (8).

In subsection (a)(1) of this section, the phrase "after the defendant is found guilty of murder in the first degree" is substituted for the former phrase "after the trial has been completed" to reflect that the sentencing