

WHEREAS, The Court of Appeals, in numerous cases including *Tichnell v. State*, 287 Md. 695 (1980), has construed the statutory provisions that relate to weighing of mitigating and aggravating circumstances in death penalty cases to require a finding that the aggravating circumstances outweigh the mitigating circumstances; and

WHEREAS, Notwithstanding the case law and rules governing sentencing procedures in death penalty cases, there is considerable confusion about the weighing of mitigating and aggravating circumstances; and

WHEREAS, Restating the statutory provisions to state clearly that the aggravating circumstances must be found to outweigh the mitigating circumstances would reduce this confusion, without effecting a substantive change in the law; now, therefore,

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article 27 - Crimes and Punishments

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;

(ii) The defendant was convicted after a trial before the court sitting without a jury;

(iii) The jury that determined the defendant's guilt has been discharged by the court for good cause; or

(iv) Review of the original sentence of death by a court of competent jurisdiction has resulted in a remand for resentencing; or

(3) Before the court alone, if a jury sentencing proceeding is waived by the defendant.

(c) (1) The following type of evidence is admissible in this proceeding:

(i) Evidence relating to any mitigating circumstance listed in subsection (g) of this section;

(ii) Evidence relating to any aggravating circumstance listed in subsection (d) of this section of which the State had notified the defendant pursuant to § 412(b) of this article;