

**CHAPTER 331**

**(House Bill 590)**

AN ACT concerning

**Criminal Law – Death Penalty – Appeal – Proportionality Review**

FOR the purpose of repealing the requirement in an appeal of a sentence of death that the Court of Appeals determines whether the sentence is excessive or disproportionate to the penalty imposed in similar cases; making certain stylistic changes; and generally relating to the appeal of a sentence of death.

BY repealing and reenacting, with amendments,  
Article 27 – Crimes and Punishments  
Section 414(e) and (f)  
Annotated Code of Maryland  
(1987 Replacement Volume and 1991 Supplement)

Preamble

WHEREAS, The United State Supreme Court, in *Pulley v. Harris*, 465 U.S. 37 (1984), declared that a comparative proportionality review is not constitutionally required in an appeal of the death penalty to a state’s highest court; and

WHEREAS, A proportionality review is not necessary to ensure that the death penalty is neither arbitrarily or capriciously imposed in a particular case; 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**

414.

(e) In addition to the consideration of any errors properly before the Court on appeal, the Court of Appeals shall consider the imposition of the death sentence. With regard to the sentence, the Court shall determine:

- (1) Whether the sentence of death was imposed under the influence of passion, prejudice, or any other arbitrary factor;
- (2) Whether the evidence supports the jury’s or court’s finding of a statutory aggravating circumstance under § 413(d); AND
- (3) Whether the evidence supports the jury’s or court’s finding that the aggravating circumstances are not outweighed by mitigating circumstances[; and
- (4) Whether the sentence of death is excessive or disproportionate to the penalty imposed in similar cases, considering both the crime and the defendant].