

Court of Appeals, in reviewing the imposition of a sentence of death, must determine whether the evidence supports the jury's or court's finding that the aggravating circumstances outweigh the mitigating circumstances; and generally relating to the death penalty and aggravating and mitigating circumstances.

BY repealing and reenacting, without amendments,

Article 27 - Crimes and Punishments

Section 413(a), (b), (c), (d), (e), (f), (g), and (i) and 414(a)

Annotated Code of Maryland

(1987 Replacement Volume and 1991 Supplement)

BY repealing and reenacting, with amendments,

Article 27 - Crimes and Punishments

Section 413(h) and (j) and 414(e)

Annotated Code of Maryland

(1987 Replacement Volume and 1991 Supplement)

Preamble

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: