

- (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;
- (iii) Evidence of any prior criminal convictions, pleas of guilty or nolo contendere, or the absence of such prior convictions or pleas, to the same extent admissible in other sentencing procedures;
- (iv) Any presentence investigation report. However, any recommendation as to sentence contained in the report is not admissible; and
- (v) Any other evidence that the court deems of probative value and relevant to sentence, provided the defendant is accorded a fair opportunity to rebut any statements.

(2) The State and the defendant or his counsel may present argument for or against the sentence of death.

(3) After presentation of the evidence in a proceeding before a jury, in addition to any other appropriate instructions permitted by law, the court shall instruct the jury as to the findings it must make in order to determine whether the sentence shall be death, imprisonment for life without the possibility of parole, or imprisonment for life, and the burden of proof applicable to these findings in accordance with subsection (f) or subsection (h) of this section.

(d) In determining the sentence, the court or jury, as the case may be, shall first consider whether, beyond a reasonable doubt, any of the following aggravating circumstances exist:

(1) The victim was a law enforcement officer who was murdered while in the performance of his duties.