

(III) EVIDENCE OF A PRIOR CRIMINAL CONVICTION, GUILTY PLEA, PLEA OF NOLO CONTENDERE, OR THE ABSENCE OF ANY PRIOR CONVICTIONS OR PLEAS, TO THE SAME EXTENT THAT THE EVIDENCE WOULD BE ADMISSIBLE IN OTHER SENTENCING PROCEDURES;

(IV) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, ANY PRESENTENCE INVESTIGATION REPORT; AND

(V) ANY OTHER EVIDENCE THE COURT FINDS TO HAVE PROBATIVE VALUE AND RELEVANCE TO SENTENCING, IF THE DEFENDANT HAS A FAIR OPPORTUNITY TO REBUT ANY STATEMENT.

(2) A RECOMMENDATION IN A PRESENTENCE INVESTIGATION REPORT AS TO A SENTENCE IS NOT ADMISSIBLE IN A SENTENCING PROCEEDING.

(3) THE STATE AND THE DEFENDANT OR COUNSEL FOR THE DEFENDANT MAY PRESENT ARGUMENT FOR OR AGAINST THE SENTENCE OF DEATH.

(F) JURY INSTRUCTIONS.

(1) AFTER THE EVIDENCE IS PRESENTED TO THE JURY IN THE SENTENCING PROCEEDING, THE COURT SHALL:

(I) GIVE ANY APPROPRIATE INSTRUCTIONS ALLOWED BY LAW;
AND

(II) INSTRUCT THE JURY AS TO:

1. THE FINDINGS THAT THE JURY MUST MAKE TO DETERMINE WHETHER THE DEFENDANT SHALL BE SENTENCED TO DEATH, IMPRISONMENT FOR LIFE WITHOUT THE POSSIBILITY OF PAROLE, OR IMPRISONMENT FOR LIFE; AND

2. THE BURDEN OF PROOF APPLICABLE TO THE FINDINGS UNDER SUBSECTION (G)(2) OR (I)(1) AND (2) OF THIS SECTION.

(2) THE COURT MAY NOT INSTRUCT THE JURY THAT THE JURY IS TO ASSUME THAT A SENTENCE OF LIFE IMPRISONMENT IS FOR THE NATURAL LIFE OF THE DEFENDANT.

(G) CONSIDERATION OF AGGRAVATING CIRCUMSTANCES.

(1) IN DETERMINING A SENTENCE UNDER SUBSECTION (B) OF THIS SECTION, THE COURT OR JURY FIRST SHALL CONSIDER WHETHER ANY OF THE FOLLOWING AGGRAVATING CIRCUMSTANCES EXISTS BEYOND A REASONABLE DOUBT:

(I) ONE OR MORE PERSONS COMMITTED THE MURDER OF A LAW ENFORCEMENT OFFICER WHILE THE OFFICER WAS PERFORMING THE OFFICER'S DUTIES;

(II) THE DEFENDANT COMMITTED THE MURDER WHILE CONFINED IN A CORRECTIONAL FACILITY;