

ALABAMA

STATISTICAL INFORMATION

Current Governor: Bob Riley Legislative Term: Feb. - May
Term of Office: Jan 2003 - Jan 2007

Total Inmate Pop.
(As of 4/1/05): 27,585 White: 40.0% Black: 59.8% Latino/a: N/A Other: .2%

Death Row Pop.
(As of 5/13/05:): 192 White: 98 Black: 92 Latino/a: N/A Other: 2

EXECUTIONS
Since 1976: 31 White: 14 Black: 16 Latino/a: N/A Other: 0
(As of 5/19/05)
Carried out in 2003: 3
Carried out in 2004: 2
Carried out in 2005: 1 Scheduled for 2005: 1
(As of 5/19/05)

INMATES REMOVED FROM DEATH ROW BETWEEN 1973 AND 2004 (does not include
those executed by the state or those who died of natural causes):

Total Number: 112

Sentence/Conviction
overturned (minus
exonerations): 107

Sentence reduced: 2

Exonerations: 3

RELATED STATUTORY PROVISIONS

Life without Parole: yes

Prohibits the execution of juvenile offender: yes

Prohibits the execution of mentally retarded offender: yes

Prohibits the execution of mentally ill offender: no

CURRENT STATUS OF THE MORATORIUM:

Moratorium: no

Study: no

HISTORY OF LEGISLATION ADDRESSING ABA ISSUES

Moratorium/Study:

Current: *2005*: One bill was indefinitely postponed that would have placed a moratorium on the death penalty for a period of three years until certain procedures are implemented to ensure that death penalty cases are administered fairly and impartially (SB371).

Previous Years: *2004*: One bill failed that provides for a moratorium on the imposition and execution of the death penalty for a period of three (3) years and procedures for administering death penalty cases. Recommends that the following be implemented: (1) the American Bar Association's Guidelines for the Appointment and Performance of Counsel in Death Penalty Cases; (2) procedures to preserve and enhance state post conviction relief in death sentence cases; (3) procedures to eliminate discrimination in capital sentencing; and (4) procedures to prevent the execution of mentally retarded persons and persons who were under the age of 18 at the time of the offense (SB18). Another bill failed that provides for a ten (10) year moratorium on the death penalty for each juvenile sentenced to death and the commutation of all juvenile death sentences. Exempts juveniles from the death penalty. Defines "juvenile" as a person less than 18 years of age at the time of the commission of a capital offense (SB92). *2003*: One bill died in the Judiciary Committee that provided for a moratorium on the death penalty

for a period of three years until certain procedures are implemented to ensure that death penalty cases are administered fairly and impartially (SB308). *2002*: One bill died that would place a moratorium on the death penalty for a period of three years, until certain procedures are implemented to ensure that death penalty cases are administered fairly and impartially. These procedures included implementing: 1) the American Bar Association Guidelines for the Appointment and Performance of Counsel in Death Penalty Cases; 2) due process procedures to preserve and enhance state post conviction relief in death sentence cases; 3) procedures to eliminate discrimination in capital sentencing on the basis of race of either the victim or defendant; and 4) due process procedures to prevent the execution of mentally retarded persons and persons who were under the age of 18 at the time of the offense (SB186). *2001*: One bill referred to committee would have placed a moratorium on the imposition of the death penalty and introduced a study of the State's death penalty system; two bills introduced would have placed a three-year

moratorium on executions. *2000*: Three bills defeated would have placed a moratorium on executions for three years.

Capital Offenses and Procedures:

Current: *2005*: One bill failed that would provide that sentence of a defendant convicted of a murder during a kidnapping in the first degree or an attempt thereof when the victim is a child age 13 or younger, would be subject to an automatic sentence of death (HB569). Another bill failed that under existing law, murder committed by or through the use of an assault weapon is not necessarily a capital offense. This bill would define murder committed by or through the use of an assault weapon as a capital offense and would define assault weapon (SB46).

Previous Years: *2004*: One bill that failed sine die would have expanded the definition of "capital offense" to include "murder by the defendant of a victim when the victim had a protection order issued against the defendant" (SB327).

Aggravating and Mitigating Circumstances

Current: *2005*: One bill failed that would also specify that the murder of a child age 13 or under in the course of a kidnapping would be an aggravating circumstance in the sentencing phase of the capital offense (HB569). Another bill indefinitely postponed, under existing law, murder committed by or through the use of an assault weapon is not necessarily a capital offense and the bill would define murder committed by or through the use of an assault weapon as a capital offense and would define assault weapon (SB46).

Previous Years: None.

DNA Testing and Preservation of Material Evidence: Current: None

Previous: 2004 : One bill failed sine die that would have prohibited a court from overriding a jury verdict. Allowed defendants to seek fingerprint or DNA testing on evidence that was used during trial to secure his or her conviction. Would have established the Office of Alabama Defender to represent defendants in capital cases and task force to oversee the Office and appoint the Alabama Defender (SB95). 2003 : One bill died in the Judiciary Committee that would have prohibited a court from overriding a verdict by a jury in a capital case; provides for automatic appeal of a death sentence to the Alabama Court of Criminal Appeals; allowed a defendant to seek fingerprint or DNA evidence testing on evidence that resulted in his/her conviction; established the Office of the Alabama Defender to represent persons in capital cases (SB275).

Crime Labs and Medical Examiner Offices Current: None.

Previous Years: None.

Counsel Qualifications, Training, and Competency: Current: None.

Previous Years: 2002 : see moratorium/study; One bill, among other things, would have established the Office of the Alabama Defender to represent defendants of capital cases and provides for appropriations to fund the office (SB209).

Counsel Compensation Current: None.

Previous Years: 1999: One bill passed by the House and Senate and signed by the governor modestly increases the rate of compensations granted to attorneys representing indigent criminal defendants at all stages of trial proceedings. 1998: One bill pocket vetoed that would have raised court appointed counsel fees and would have eliminated the cap on fees in death penalty cases.

Judges and Juries Current: 2005: One bill failed that would prohibit a court from overriding a verdict by a jury in a capital case. Under existing law, in a capital case, the jury may recommend to the court the sentence of a person convicted of a capital offense, but the court is not required to accept the jury's recommendation (SB15). Another failed bill would require a unanimous vote of the jury to recommend the sentence of death. Under existing law, in a capital case, the jury may recommend the death penalty to the court when a person is convicted of a capital offense, but the court is not required to accept the recommendation of the jury. The decision of the jury to recommend the death penalty is required to be based on a vote of at least 10 jurors (SB16).

Previous Years: 2004 : One bill that failed would have required a unanimous vote of the jury to recommend a death sentence (SB189). Another failed bill would have prohibited a court from overriding a jury verdict (SB190).

Racial and Ethnic Minorities Current: None.

Previous Years: 2002 : See moratorium/study.

Juvenile Offenders Current: 2005: One bill was indefinitely postponed that would prohibit the imposition of the death penalty for any criminal defendant who was less than 18 years old at the time of the commission of the capital offense (SB372).

Previous Years: 2004: One bill failed which prohibited the execution of defendants who were under the age of 18 at the time of the commission of a capital offense (SB17). For another bill see SB92 under moratorium 2003: One bill died that would have provided an exemption from capital punishment for a defendant under the age of 18 (SB324). Another bill that died prohibited the imposition of the death penalty for any criminal defendant who was less than 18 years old at the time of the commission of the capital offense (SB325) 2002 : see moratorium/study; One bill introduced would have provided an exemption from the death penalty for persons who were less than 18 years old at the time of the commission of the capital offense (SB538).

Mental Retardation,
Mental Disability and
Mental Competency

Current: 2005: One bill that was indefinitely postponed would establish standards and procedures in death penalty cases for the trial court to determine whether a defendant is mentally retarded (SB368). Another bill failed that would provide the procedures for the determination by the judge or by a jury as to whether a defendant is mentally retarded and not subject to the death penalty when the defendant has been charged with a capital offense (HB73).

Previous Years: 2004: Two bills failed prohibiting the execution of defendants who are mentally retarded. Defines mental retardation as having subaverage intellectual functioning existing concurrently with significant limitations in adaptive functioning, which manifested before age 18. Required significant limitations in two or more of the listed adaptive skills (HB229 and SB31). One bill failed which would have established procedures for the trial court to follow in assessing whether an individual is mentally retarded for the purpose of excluding him/her from the death penalty (SB25).

2003 : One bill died sine die that would have prohibited the execution of mentally retarded offenders (HB98, HB670). Two bills died in the Judiciary Committee that would have established standards and procedures in death penalty cases for the trial court to determine whether a defendant is mentally retarded and therefore not subject to the death penalty (HB340, SB288). Another bill died providing an exemption from capital punishment for a defendant with mental retardation (SB323). See 2002 moratorium/study; Two bills introduced would prohibit the execution of mentally retarded defendants under certain circumstances (HB476, SB434).

**STATE AND LOCAL GOVERNMENTS, AND LEGAL
ORGANIZATIONS THAT HAVE PASSED MORATORIUM**

Town of Akron
City of Bessemer
City of Birmingham
Town of Boligee
City of Brighton
County of Bullock
Town of Camp Hill
County of Clayton
City of Epes
City of Eutaw
City of Fairfield
Town of Five Points
Town of Forkland
Town of Gainesville
Town of Gordonville
County of Greene
Town of Hayneville
City of Hobson
City of Hurtsboro
City of La Fayette
City of Leighton
County of Lowndes
County of Macon
Town of Midway
Town of Mosses
City of North Courtland
City of Prichard
City of Ridgeville
City of Selma
County of Sumter
City of Tuskegee
City of Union Springs
City of Uniontown
Town of White Hall
County of Wilcox
Mitigation Services of Alabalam
Southern Poverty Law Center

****Last Updated on June 27, 2005**