

# FLORIDA

## STATISTICAL INFORMATION

**Current Governor:** Jeb Bush  
**Term of Office:** Jan. 2003 - Jan. 2007

**Legislative Term:** Jan. - Mar.

**Total Inmate Pop.**  
(As of 06/24/05): 84,771      **White: 39.1% Black: 50.6% Latino/a: 10.1' Other: <.3%**

**Death Row Pop.**  
(As of 6/30/05): 368      **White: 231 Black: 126 Latino/a: 0 Other: 11**

**EXECUTIONS:**  
**Since 1976:** 60      **White: 36 Black: 20 Latino/a: 3 Other: 1**  
(As of 2/2/05)

**Carried out in 2003:** 3

**Carried out in 2004:** 1

**Carried out in 2005:** 1  
(As of 06/27/05)

**INMATES REMOVED FROM DEATH ROW BETWEEN 1973 AND 2005**  
(does not include those executed by the state or those who died of natural causes) :

**Total Number:** 440

**Sentence/Conviction overturned (minus exonerations):** 397

**Sentence reduced:** 18

**Exonerations:** 23

**Other:** 2

## RELATED STATUTORY PROVISIONS:

**Life without Parole:** yes

**Prohibits the execution of juvenile offenders:** yes

**Prohibits the execution of mentally retarded offenders:** yes

**Prohibits the execution of mentally ill offenders:** no

## CURRENT STATUS OF THE MORATORIUM:

**Moratorium:** no

**Study:** no

## **HISTORY OF LEGISLATION ADDRESSING ABA ISSUES**

**Moratorium/Study:** **Current: 2005:** One bill died that would have repealed Rule 3.203, Florida Rules of Criminal Procedure, relating to imposition of the death penalty (HB1867, SB2310).

**Previous Years:** None.

**Capital Offenses and Procedures:**

**Current:**

**Previous Years:**

**Aggravating and Mitigating Circumstances:**

**Current: 2005:** One bill signed into effect by the Governor create the Jessica Lunford Act, which creates an aggravating circumstance pertaining to sexual predators for purposes of imposing the death penalty (HB1877).

**Previous Years:** None.

**DNA Testing and Preservation of Material Evidence:**

**Current:** None

**Previous Years: 2004:** One bill failed Sine Die that would have extended the period following sentencing during which a petition may be filed or considered by the court to order DNA testing from two (2) years to four (4) years (SB44). Another bill was tabled that extended the period following sentencing during which a petition may be filed or considered by the court to order the testing of criminal DNA evidence (HB35). **2003:** One bill died prior to introduction that would have provided an alternative deadline of October 1, 2004 for filing or considering a petition for postsentencing DNA testing (HB21E).

**Crime Labs and Medical Examiner Offices:**

**Current:** None.

**Previous Years:** None.

**Counsel Qualifications, Training, and Competency:**

**Current: 2005:** One bill failed that would have created the Death Penalty Reform Act: prohibits certain public defenders from representing certain persons sentenced to death. provides for notification of Fla. Supreme Court & appointment by court of another public defender. amends provision re capital postconviction public records production. revises criteria for determining full pleading of capital postconviction action, etc. (SB1972).

**Previous Years: 2002: One bill passed and signed into law that authorizes removal of attorneys from the registry under certain circumstances, provides an additional requirement for attorneys who may be listed on the statewide registry of attorneys in private practice who are available for appointment to represent people convicted and sentenced to death in post-conviction capital collateral proceedings (Chapter No. 2002-31); One bill passed and was signed into law that recreates the Indigent Criminal Defense Fund within the Justice Administrative Commission without modification (Chapter No. 2002-92). 2001: One bill introduced would have established a Capital Case Staff Attorney Program.**

**Counsel  
Compensation:**

**Current: None.**

**Previous Years: 2003:** Two bills died that would have provided for changes in the appointment and compensation of attorneys assigned to indigent clients in capital cases and appeals from judgments imposing the death penalty (HB1929, SB1184). **1997:** One bill passed to replace the Office of Capital Collateral Representative with three Capital Collateral Regional Councils.

**Judges and Juries:**

**Current: 2005:** One bill failed that would create the Death Penalty Reform Act, which conforms various provisions of law to a constitutional amendment creating a judicial conference to propose rules of practice and procedure governing violations of criminal law, violations of criminal law by juveniles, and postconviction proceedings and prohibiting courts from requiring or authorizing judicial review of criminal judgments or sentences except as authorized by general law or rule of postconviction procedure approved by the Legislature (HB1005).

**Previous Years:**

**Racial and Ethnic  
Minorities:**

**Current: None.**

**Previous Years: None.**

**Juvenile Offenders:**

**Current: 2005:** One bill failed that that would create an act relating to imposition of a death sentence. It would create s. 921.1415, F.S., providing that only criminals who were 18 years of age or older at the time the crime was committed may be sentenced to death, amending s. 775.082, F.S., to conform, providing applicability, providing an effective date (SB346).

**Previous Years: 2004:** One bill failed Sine Die which provided that only offenders who were the age of 18 or older can be sentenced to death (HB68). Another failed bill limits the application of the death penalty to individuals who were age 18 or older at the time of the commission of the capital offense (SB224). One more bill failed that provided that only criminals who were 18 years of age or older at the time the crime was committed may be sentenced to death. It also amended specified provisions to conform (HB63). Another bill died that required courts to make a competency determination when a juvenile is indicted for an offense punishable by death or life imprisonment (SB2470). **2003:** Two bills died that would have provided that only criminals who were 18 years of age or older at the time of the crime are eligible for the death penalty (SB224, HB63). One bill died limiting the age at which a minor convicted of an offense punishable by death or life imprisonment may be sentenced as adult; requires that court commit child of specified age or younger to Juvenile Justice Dept. or to maximum-risk juvenile facility

following child's conviction. This bill later died in the Committee on Criminal Justice. (SB72). Another bill introduced prohibits the sentence of death for a person who, at the time of the crime, was younger than 18 years of age; requires that the court sentence a person to life imprisonment without the possibility of parole if the person is convicted of a capital felony committed when that person was younger than 18 years of age. This bill later died (SB1070). 2002: One bill died that would have revised the state attorney's requirements regarding the prosecution of minors as adults for certain violent felonies and for offenses punishable by death or life imprisonment (S286); Two bills died that provided that only criminals who were 18 years of age or older at the time of their crimes are eligible for the death penalty (H1615, S1212). 2001 : One bill died on the calendar that would have prohibited the death penalty for defendants 18 years or younger at the time of their offense (the bill was amended to make death eligible age from 16 to 18).

**Mental Retardation,**  
**Mental Disability**  
**and Mental**  
**Competency:**

Current: 2005: One bill failed that would have provided for procedures when a person under sentence of death is alleged to be insane. requires the Department of Children and Family Services to supply a treatment team to evaluate and treat the person. requires a report to the Governor within a specified time. authorized the Governor to appoint a commission to reexamine the person. provided that if the Governor determines that the person has regained the mental capacity to understand the nature of the death penalty, the Governor shall lift the stay and proceed with the execution. provided that an inmate is not incompetent because the inmate needs psychotropic medication to be competent. provided for committing an inmate under sentence of death to the Department of Children and Family Services or the Agency for Persons with Disabilities for treatment or training. required the Department of Children and Family Services or the Agency for Persons with Disabilities to provide treatment or training services at a place designated by the Department of Corrections. provided for involuntary

treatment of an inmate found not to be competent to proceed who refuses to give express and informed consent to the treatment or training. provided procedures for emergency and nonemergency situations. provided for a hearing (HB1831, SB2576).

Previous Years: 2004 : One bill died that required courts to make a competency determination when a juvenile is indicted for an offense punishable by death or life imprisonment (SB2470). 2003: Two bills died in committee which, among other things, would have amended the provision regarding the prohibition on sentencing mentally retarded defendant to death (SB120, HB965). 2001 : One bill signed into law prohibits the death penalty for mentally retarded defendants.

**Special Notes:**

*2004: The legislature passed and governor approved a bill that removes public-records exemption for executioner's identifying information. Repeals provision which provides exemption from public records requirements for information that would identify any person prescribing, preparing, compounding, dispensing, or administering lethal injection pursuant to death sentence. Revises language re public records exemption for identity of executioner, etc. (HB1717).*

*2001 : The legislature passed and the FL electorate endorsed a constitutional amendment, under which the FL Supreme Court would be barred in criminal cases from construing the FL Constitution more favorably to defendants than the U. S. Constitution.*

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

Tallahassee City Commission, January 9, 2002

**\*\*Last Updated on June 30, 2005**