

GEORGIA

STATISTICAL INFORMATION

Current Governor: Sonny Purdue
Term of Office: Jan. 2003 - Jan. 2007

Legislative Jan. - Mar.
Term:

Total Inmate Pop.
(As of 06/27/05): 49,901 White: 37% Black: 62% Latino/a: 0% Other: 1%

Death Row Pop.
(As of 06/27/05): 112 White: 56 Black: 51 Latino/a: 0 Other: 2

EXECUTIONS:
Since 1976: 38 White: 25 Black: 13 Latino/a: 0 Other: 0
(As of 2/2/05)

Carried out in 2003: 3

Carried out in 2004: 2

Carried out in 2005: 2
(As of 06/27/05)

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: 153

Sentence/Conviction
overturned (minus
exonerations): 139

Sentence reduced: 7

Exonerations: 6

Other: 1

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 retarded offenders: no

CURRENT STATUS OF THE MORATORIUM:

Moratorium: no

Study: no

HISTORY OF LEGISLATION ADDRESSING ABA ISSUES

Moratorium/Study: Current: 2005: One bill was introduced relating to the payment and disposition of fines and forfeitures, so as to authorize the collection of a civil filing fee in certain courts. to provide for distribution of the fee revenue. to provide for deposit of the fee revenue into a separate fund. to provide that fee revenues shall be used exclusively for the purpose of providing indigent defense services. to provide for penalties. to provide an effective date. to repeal conflicting laws. and for other purposes (HR301). A resolution failed that would have created the Georgia Capital Punishment Study Commission to study the death penalty. to provide for the powers, duties, and compensation of its members. to urge the suspension of executions until such time as a report from such study commission is submitted to the General Assembly and the Governor act in response to recommendations from the study commission, and for other purposes (SR184).

Previous Years: 2004 : One bill failed sine die which would have provided that the State Board of Pardons and Paroles may commute a sentence of death to life imprisonment by a majority vote (HB1154). 2003: One bill introduced created the Georgia Capital Punishment Study Commission to study the death penalty (HR546). Withdrawn, then recommitted. 2001-02 : One bill introduced would have created the House Study Commission on the Death Penalty to examine problems with the application of the death penalty (HR1594).

Capital Offenses and

Procedures: Current: None.

Previous Years: None.

Aggravating and

Mitigating Current: None.

Circumstances:

Previous Years: None.

DNA Testing and
Preservation of

Material Evidence: Current: None.

Previous Years: 2003: One bill died that would have provided that a request for post-conviction DNA testing shall be made through an extraordinary motion for a new trial; provides procedures, conditions, and standards for conducting of post-conviction DNA testing; provided for appeals by either party in cases where DNA testing is requested; provided standards for the retention of evidence in criminal cases (HB599). Another bill was signed by the Governor into effect which changes certain provisions relating to a motion for a new trial where a person is sentenced for a capital crime and DNA testing may be exculpatory; provides for post-conviction requests for DNA testing in cases where a person is sentenced to death (SB119).

Crime Labs and
Medical Examiner
Offices:

Current: 2005: One bill died that related to the death penalty generally, so as to protect physicians and medical professionals involved in state ordered executions from challenges to their licensure solely on the basis of their participation in such executions. to provide for related matters. to provide for an effective date. to repeal conflicting laws. and for other purposes (HB57).

Previous Years: None.

Counsel
Competency:

Current: None.

Previous Years: None.

Counsel
Compensation:

Current: 2005: One bill signed into law related to legal defense for indigents, so as to allow alternative delivery systems to opt out from having a public defender system under certain circumstances to amend Code Section 15-21-77 of the Official Code of Georgia Annotated, relating to collections to be appropriated for indigent defense, to correct a cross-reference. to provide for related matters. to provide for an effective date. to repeal conflicting laws. and for other purposes (HB366). One bill died that would have amended Article 2 of Chapter 12 of Title 17 of the Official Code of Georgia Annotated, related to public defenders, so as to authorize the recovery of attorney's fees and costs from persons who receive indigent defense services. to provide for related matters. to provide an effective date. to repeal conflicting laws. and for other purposes(SB203). Another bill died that was relating to the payment and disposition of fines and forfeitures, so as to authorize the collection of a civil filing fee in certain courts.

to provide for distribution of the fee revenue. to provide for deposit of the fee revenue into a separate fund. to provide that fee revenues shall be used exclusively for the purpose of providing indigent defense services. to provide for penalties. to provide an effective date. to repeal conflicting laws. and for other purposes (HB771). Another failed bill, to be entitled an Act to amend Code Section 17-12-27 of the Official Code of Georgia Annotated, related to the appointment of assistant public defenders, so as to provide for an assistant public defender for the juvenile division within each circuit public defender office. to provide for related matters. to repeal conflicting laws, and for other purposes (HB316).

Previous Years: 2004 : One bill failed sine die that would have changed the criteria for distribution of certain state appropriated funds for indigent defense and altered certain provisions regarding establishment of alternative delivery systems (HB1267).

Judges and Juries: Current: None

Previous: 2004 : Two bills failed sine die that would have provided the state and defense with the same number of peremptory challenges in misdemeanor, felony, and death penalty cases, and in challenging alternative jurors. Provided the manner in which peremptory challenges should be made and changed provision relating to challenged for cause. Changed provisions relating to challenges for cause in civil cases. Changed provisions relating to questions on voir dire and setting aside jurors for cause and the size of jury panel in felony cases. Provided the manner in which the number of alternative jurors is to be determined. Provided the state with an equal number of additional peremptory challenges in trials for jointly indicted defendants (HB1657, HB1678). Another bill failed which would have provided that in noncapital felony cases the state and defense shall have the same number of peremptory challenges (SB412).

Racial and Ethnic Minorities: Current: None.

Previous Years: 2003: One bill, which died in committee, the "Georgia Racial Justice Act," prohibited the execution of any person if the sentence was imposed based on race (HB129). 2001-02 : One bill that died would have prohibited the execution of the death sentence for any person if the sentence was imposed based on race. The bill also would have provided for an inference that a sentence was based on race and for rebuttal of that inference based on clear and convincing evidence (HB 1211); One bill died that would have prohibited the death penalty when a defendant can make a prima facie showing that race was a factor in the State's seeking death (HB324). 2001 : One bill withdrawn would have prohibited the death penalty where defendant can make a prima facie showing that race was a factor in the state seeking death.

Juvenile Offenders:

Current: 2005: One bill passed creating the Juvenile Code Rewrite Joint Study Committee. and for other purposes (SR161). *Also see Counsel Compensation*

Previous Years: 2004: One bill failed sine die which provided that juvenile court has original concurrent jurisdiction over certain acts committed by children under age 17 (HB1490).

Mental Retardation, Mental Disability and Mental Competency:

Current: None.

Previous Years: 2001-02 : One bill died that would have prohibited the execution of the mentally ill or mentally retarded (SB971); One bill died that would have prohibited the imposition of the death penalty on people who are guilty but mentally ill (HB971).

Special Notes (Clemency): Current: None

Previous Years: 2004 : One bill failed which provided that the State Board of Pardons and Paroles may commute a sentence of death to life imprisonment by a majority vote (HB1154).

Special Notes (Trial Proceedings in Capitol Cases):

Current: 2005: One bill signed into effect by the Governor enacts the "Criminal Justice Act of 2005" so as to substantially revise the laws of this state relating to the conduct of criminal trials and appeals in criminal cases. relating to appeal or certiorari by the state in criminal cases, so as to provide that the state may appeal from an order, decision, or judgment of a superior court granting a motion for new trial or denying a motion by the state to recuse or disqualify a judge. relating to trial juries, so as to provide the state and the accused with the same number of peremptory challenges in misdemeanor, felony, and death penalty cases and in challenging alternate jurors. to provide the manner in which peremptory challenges are made. to change the size of the jury panel in felony and death penalty cases. to provide the manner in which the number of alternative jurors is determined. relating to criminal procedure, so as to provide the state with an equal number of additional peremptory challenges in trials for jointly indicted defendants. to provide that the prosecuting attorney shall always

conclude the argument to the jury. to change the provision relating to notice and argument in presentence hearings. to provide that provisions relating to discovery apply to sentencing proceedings. relating to evidence, so as to change the provisions relating to the impeachment of witnesses. to provide for the admission of evidence of character of a witness. to provide for the impeachment of witnesses through evidence of conviction of a crime. to provide for the admission of specific instances of conduct by a witness. to provide for other matters relative to the foregoing (HB170).

Previous Years: 2004: Amendment of Title 17 of the Official Code of Georgia Annotated, relating to criminal procedure, so as to provide that courts may conduct bench trials in criminal cases with the consent of the defendant and the state; to provide that, when cases in which a demand for trial is filed end in a mistrial, such cases may be tried again in the same term of court; to provide for the service of demands for trial; and for other purposes (HB1264).

Special Notes (Sentence Commutation):

Current: None

Previous Years: 2004 : One bill failed which provided that an individual whose death sentence was commuted to life imprisonment shall not eligible for parole until that person has service twenty-five (25) years in prison. The minimum term of imprisonment shall not be reduced by earned time, early release, work release or leave (HB1487).

Special Notes:(Compensation of wrongfully sentenced in murder cases)

2005: One resolution was signed by the Governor compensating Clarence Harrison in the sum of one million dollars after he was exonerated through DNA evidence of murder, rape, and kidnapping (SR108). Two other resolutions were introduced compensating Samuel Scott and Douglas Echols after they too were exonerated of their crimes (HR85 and HR86).

Special Notes:

2005: Two bills died related to punishment of repeat offenders, so as to provide that a person convicted of the offense of murder who is not sentenced to death and who has previously been convicted of three or more felonies shall be sentenced to life without parole. to provide for related matters. to provide an effective date. to repeal conflicting laws. and for other purposes (HB248, SB57).

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

Atlanta Bar Association, May 17, 2001

City of Atlanta

City of Macon

National Lawyers Guild, Atlanta Chapter

****Last Updated on August 29, 2005**