

INDIANA

STATISTICAL INFORMATION

Current Governor: Frank O'Bannon
Term of Office: Jan. 2001 -Jan. 2005

Legislative Term: Jan. - Mar.

Total Inmate Pop.
(As of 4/30/05): 26,801 **White: 55% Black: 42% Latino/a: 2% Other: 0%**
(Statistics not up to date)

Death Row Pop.
(As of 6/24/05): 33 **White: 27 Black: 12 Latino/a: 0 Other: 0**

EXECUTIONS:

Since 1976: 14 **White: 8 Black: 3 Latino/a: 0 Other: 0**
(As of 6/20/05)

Carried out in 2003: 2

Carried out in 2004: 0

Carried out in 2005: 3 Scheduled for 2005: 1
(As of 6/20/05)

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: 42

Sentence/Conviction overturned (minus exonerations): 36

Sentence reduced: 2

Exonerations: 2

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: yes

Status: In March 2000, Governor Frank O'Bannon asked the state's Criminal Law Study Commission to examine 1) the types and effectiveness of safeguards that are in place in the Indiana system to prevent the conviction of innocent capital defendants, 2) the training and qualifications of capital defense counsel, 3) the efficacy of state and federal review procedures, 4) the comparative costs of capital punishment and sentences of life without parole, and 5) the prevalence of race as a factor in the imposition of the death penalty. As of October 1, 2002, the study has not been released.

HISTORY OF LEGISLATION ADDRESSING ABA ISSUES

Moratorium/Study: Current: None.

Previous Years: 2003: One bill died sine die that would abolish the death penalty and commutes all death sentences to life imprisonment without parole (HB1255). Another bill, among other things, was defeated in the Senate that prohibited imposition of the death penalty or life imprisonment without parole if the jury deadlocks (SB145). Another bill that died sine die, among other things, abolishes the death penalty. Specifies that if a person was sentenced to death and is awaiting execution of the death sentence, the person's death sentence is commuted to a sentence of life imprisonment without parole (SB282). 2002 : One bill would have abolished the death penalty (SB 237). One bill would have placed a moratorium upon executions until April 1, 2004 and established an eight member murder sentencing study committee to review and analyze all trials that involved murders committed in Indiana after July 1, 1976, and before July 1, 2002 (HB 1320). 2001 : One bill introduced would have placed a moratorium on executions and created an eight member sentencing committee to review all capital

trials since 1976.

Capital Offenses and Procedures:

Current: 2005: One bill failed that would provide that a person who commits murder may receive the death penalty or life imprisonment without parole if a protective order was in effect for the benefit of the murder victim and against the person who committed the murder at the time the murder was committed. Allows the state to present evidence of a defendant's history of delinquency or criminality during the penalty phase of the defendant's murder trial (SB334).

Previous Years: None.

Aggravating and Mitigating Circumstances:

Current: 2005: One bill failed that makes commission of a crime because of the color, creed, disability, national origin, race, religion, sexual orientation, or sex of the victim an aggravating circumstance: (1) that may be considered by a judge when the judge imposes a sentence for the crime. and (2) that, in a murder case, may provide the grounds on which the state seeks the death penalty. Makes it discrimination in jury selection, a Class A misdemeanor, for a public servant having the duty to select or summon persons for grand jury or trial jury service to knowingly or intentionally fail to select or summon a person because of the person's sexual orientation (SB505).

Previous Years:2004: One bill that failed sine die would have made commission of a crime because of the color, creed, disability, national origin, race, religion, sexual orientation, or sex of the victim an aggravating circumstance that may be considered by a judge when the judge imposes a sentence for the crime, and that, in a murder case, may provide the grounds on which the state seeks the death penalty. Proscribes discrimination in jury selection as a Class A misdemeanor (SB240).

Current: None.

DNA Testing and Preservation of Material Evidence:

Previous Years: None.

**Crime Labs and
Medical Examiner
Offices:** Current: None.

Previous Years:

**Counsel
Competency:** Current: None.

Previous Years: None.

**Counsel
Compensation:** Current: None

Previous Years: 2004: One bill that failed sine die required the public defender commission to give priority to certified claims for reimbursement in capital cases (SB409).

Judges and Juries: Current: 2005: One bill failed that prohibits the court from imposing a death sentence if the jury is unable to agree on a sentence recommendation during the penalty phase (SB316).

Previous Years: None.

**Racial and Ethnic
Minorities:** Current: None

Previous Years: 2004 : One bill that failed sine die would have made commission of a crime because of the color, creed, disability, national origin, race, religion, sexual orientation, or sex of the victim an aggravating circumstance that may be considered by a judge when the judge imposes a sentence for the crime, and that, in a murder case, may provide the grounds on which the state seeks the death penalty. Proscribes discrimination in jury selection as a Class A misdemeanor (SB240).2003: One bill introduced that died sine die makes the commission of a crime because of the color,

creed, disability, national origin, race, religion, sexual orientation, or sex of the victim an aggravating circumstance, and in a murder case, may provide grounds on which the state seeks the death penalty (SB380). 1999 : One bill died that would have eliminated the death penalty in situations where the defendant established that racial considerations played a part in the state's decision to seek or impose the death penalty.

Juvenile Offenders: Current: None.

Previous Years: 2003: One bill died sine die that would provide that a person at least 18 years of age who kills another person while committing battery on a child less than 14 years of age commits felony murder. Removes a provision making battery resulting in the death of a child less than 14 years of age by a person at least 18 years of age a Class A felony (HB1467). 2002 : One bill signed into law provides that an individual less than 18 years of age may not receive a sentence of death (Public Law 117 of 2002). 2001 : One bill died that would have limited the death penalty to those 18 and over.

Mental Retardation,
Mental Disability
and Mental
Competency:

Current: 2005: One bill failed that would prohibit a person who has been sentenced to death and who has completed state postconviction review proceedings from presenting newly discovered evidence concerning the person's mental illness, mental state, or mental condition (SB553).

Previous Years: 2003: One bill introduced creates the criminal offense of capital murder. Provides that a conviction for capital murder results in a sentence of death unless: (1) a court determines that mitigating factors outweigh aggravating factors; or (2) the defendant is found to be mentally retarded (HB1103). Another bill abolishing the death penalty also would have prohibited the state from seeking a sentence of life imprisonment without parole against a defendant if a court determines that the defendant is a mentally retarded individual (SB282). One bill failed sine die that would have prohibited a court from sentencing a defendant to death or life imprisonment without parole for committing murder if the defendant is found guilty but mentally ill at the time of the crime or enters a plea of guilty but mentally ill at the time of the crime that is accepted by the court (HB1812). **2002** One bill introduced would have prohibited the death penalty or life imprisonment without parole for defendants found guilty but mentally ill at the time the defendant committed the murder (HB 1177).

2001: One bill introduced would have prohibited the death penalty for mentally ill defendants.

Special Notes:

Current: None

Previous Years: 2004 : One bill recently introduced regarded Victim Impact Evidence (HB609). A bill referred to the Judiciary Committee stated a fetus that is at least twenty (20) weeks of age is presumed to have attained viability; any human being who knowingly or intentionally kills a fetus that is at least twenty weeks of age commits a felony murder (SB174). A bill referred to the Committee on Criminal and Civil and Public Policy stated that a person who commits murder may receive a death sentence or life imprisonment without the possibility of parole if a protective order was in effect for the benefit of the murder victim and against the person who committed the murder at the time the murder was committed (SB193). A bill passed by Senate and then referred to the House requires the public defender commission to give priority to certified claims for reimbursement in capital cases (SB409). A bill referred to the Committee on Judiciary allows certain individuals to elect a death sentence (SB492).

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

none

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