

KENTUCKY

STATISTICAL INFORMATION

Current Governor: Paul E. Patton
Term of Office: Jan. 2003 - Jan. 2007

Legislative Term: Jan. - Apr.

Total Inmate Pop.

(As of 6/30/05): 19,558 **White: 68%** **Black: 30%** **Latino/a: 0%** **Other: 2%**
Statistics as of 1/13/05

Death Row Pop.

(As of 3/4/05): 36 **White: 27** **Black: 8** **Latino/a: 1** **Other: 0**

EXECUTIONS:

Since 1976: 2 **White: 2** **Black: 0** **Latino/a: 0** **Other: 0**
(As of 6/30/05)

Carried out in 2003: 0

Carried out in 2004: 0

Scheduled for 2005: 0
(through 6/30/05)

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: 30

Sentence/Conviction overturned (minus exonerations): 29

Sentence reduced: 1

Exonerations: 0

Other: 0

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 failed sine die that would abolish the death penalty and require court with jurisdiction over person sentenced to death to sentence the person to imprisonment for life without benefit of probation or parole (HB465).

Previous Years: 2004: One bill that failed would have abolished the death penalty and required the commutation of all death sentences (HB88). 2003: One bill died sine die that sought to abolish the death penalty (HB472). 2002: See 2002 Juveniles; One Joint Resolution died that would have authorized and directed the Kentucky Criminal Justice Council to conduct a comprehensive study of capital cases in Kentucky (HJR 61); One bill died that would have imposed a 2 year moratorium on executions in Kentucky and required the Criminal Justice Council to make recommendations with regard to the imposition of the death penalty (SB 85); One bill died that would have abolished the death penalty (HB630). 2001: One bill died that would have abolished the death penalty; One bill died that would have placed a five-year moratorium on executions; 2000: One bill introduced would have abolished the death penalty; One bill introduced would have placed a five-year moratorium on executions; 1999: One bill introduced would have abolished the death penalty.

Capital Offenses and Procedures: Current: None

Previous Years: 2004: One bill failed that created the offense of "controlled substance endangerment to a child," which occurs when a child is present during illegal manufacture of a controlled substance. Would have added to the list of capital offenses the killing of a child during the commission of the aforementioned offense (SB163).

Aggravating and Mitigating Circumstances: Current: None

Previous Years: 2004: One bill failed which would have added the torture of a victim age twelve and under which causes or contributes to the juvenile's death as an aggravating circumstance in applying the death penalty (HB687).

DNA Testing and Preservation of Material Evidence: Current: None.

Previous Years: None.

Crime Labs and Medical Examiner Offices: Current: None

Previous Years:

Counsel Qualifications, Training and Competency: Current: None.

Previous Years: None.

Counsel Compensation: Current: None.

Previous Years: None.

Judges and Juries: Current: None.

Previous Years: None.

Racial and Ethnic Minorities: Current: None.

Previous Years: *1998* : Racial Justice Act was passed, permitting defendants to challenge prosecutors seeking the death penalty by using statistical evidence of racial disparities in prosecutorial discretion.

Juvenile Offenders: Current: *2005*: Two bills withdrawn relate to penalties for youthful offenders convicted of a capital offense, to eliminate the possibility of the youthful offender being sentenced to death or to life imprisonment without parole; retain provision permitting a youthful offender convicted of a capital offense to be sentenced to life imprisonment without parole for 25 years (HB352, SB168)

Previous Years: *2004* : Two bills that failed sine die would have eliminated the sentence of death for "youthful offenders" convicted of a capital offense and permitted a youthful offender convicted of capital offense to be sentenced to life imprisonment without the possibility of parole for twenty-five (25) years (HB475, SB166). *2003*: Two bills died that would ban the execution of offenders who commit their crimes under the age of 18 and replace the death penalty with life without parole or life without parole for 25 years (SB15, HB180). *2002* : One bill would have prohibited the expenditure of appropriations for the purpose of executions generally, the execution of juveniles, and the execution of mentally retarded offenders (HB507); One bill died that would have provided for the sentence of death for murder during a kidnapping and prohibited the execution of offenders under the age of 18 (HB610); Two bills died that would have eliminated the possibility of a youthful offender being sentenced to death or to life imprisonment without parole, but would have retained the provision

permitting a youthful offender convicted of a capital offense to be sentenced to life imprisonment without parole for 25 years (HB447, SB127). *2001* : One bill introduced would have prohibited the death penalty for defendants 18 or younger at the time of the offense.

Mental Retardation,
Mental Disability and
Mental Competency:

Current: 2005: *See Special Notes*

Previous Years: 2002 : See 2002 Juveniles; One bill died that prohibited execution of the mentally retarded, made the provision retroactive and permitted raising the claim of mental retardation even if not raised before (HB407). 2001 : One bill introduced would have prohibited the death penalty for mentally retarded defendants; 1999 : One bill died would have eliminated the death penalty for mentally retarded defendants.

Special Notes-
Admissable Evidence:

Current: None

Previous Years: 2004 : One bill failed that would have established procedures for the use of jailhouse informant testimony in capital cases, including disclosure to the defendant of informant's criminal background and prior testimonial history, the elements of any arrangement the Commonwealth has made in exchange for the testimony, and the substance of the testimony itself together with the circumstances of its disclosure to the Commonwealth, and additionally require the court to deny admission into the evidence of statements the court finds to not be reliable (HB334).

Special Notes:

Current: 2005: One bill failed sine die that would change the definition of "mentally retarded defendant" who cannot be subject to execution; prohibit the expenditure of any funds appropriated in the Executive Branch Budget for fiscal biennium 2004-2006 for executions of death row inmates, persons who were juveniles when the offense was committed, and persons with certain mental disorder diagnoses; prohibit the use of any other funds received by the state for the same actions; encourage the Governor to observe a moratorium on executions; EMERGENCY (HB181).

Previous Years: 2004 : One bill failed which would have permitted convicted felons who were wrongfully convicted to bring a claim in the Board of Claims for wrongful incarceration. Placed limit on damage awards (SB272). A bill signed by the governor provides that an unborn child after viability is to be included within the definition of "person" for purposes of the criminal homicide statutes to criminalize fetal homicide. Provides a sentence enhancement for criminally causing a miscarriage or stillbirth of a fetus before viability (HB108). One bill failed which stated that an individual is guilty of murder when s/he commits or attempts to commit certain felonies, and in the course of, in furtherance of, or in furtherance of such offense, s/he or another participant causes the death of another person, not including the other participants (SB25).

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

none

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