

# MARYLAND

## STATISTICAL INFORMATION

**Current Governor:** Robert Ehrlich, Jr.  
**Term of Office:** Jan. 2003 - Jan. 2007

**Legislative Term:** Jan. - Apr.

**Total Inmate Pop.**

(As of 1/30/05): 23,112

**White: 31% Black: 75% Latino/a: 0\* Other: .2%**

\*Latino/a population dispersed in White/Black

**Death Row Pop.**

(As of 4/1/05): 9

**White: 3 Black: 6 Latino/a: 0 Other: 0**

**EXECUTIONS:**

**Since 1976:** 4

**White: 2 Black: 2 Latino/a: 0 Other:**

(As of 6/28/05)

**Carried out in 2004:** 1

**Carried out in 2005:** 0

**Scheduled for 2005:** 0

(As of 6/28/05)

**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):** 25

**Sentence reduced:** 4

**Exonerations:** 1

**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:** yes

**Study:**

yes

Status: In March 2000, Governor Parris Glendening commissioned a study by the University of Maryland to examine Maryland's death penalty system for evidence of racial bias. On Jan. 7, 2003, the University of Maryland released the results of the study, *An Empirical Analysis of Maryland's Death Sentencing System with Respect to the Influence of Race and Legal Jurisdiction*, which examined all death eligible cases in the state between 1978-1999 and controlled for 123 other factors, case characteristics, and non-statutory aggravators and mitigators. The study concludes that there are racial and geographic disparities in Maryland's death penalty system, even when other factors are taken into account.

Specifically (1) Black defendants accused of killing white victims are more likely than any other racial combination to be sentenced to death. In cases where the death penalty is a sentencing option, blacks convicted of killing whites are 2.5 times more likely to be sentenced to death than whites who kill whites, and 3.5 times more likely than blacks who kill blacks. (2) Defendants accused of killing whites – whether

they be white or black – are significantly more likely to be charged and sentenced at the capital level.(3) A state's attorney is more likely to file a capital case and not withdraw the capital charges when the victim is white than when he or she is black. This cannot be explained by jurisdiction or by victim characteristic. (4) Baltimore County prosecutors are more likely to seek the death penalty in eligible cases than are their counterparts in other Maryland counties -- 13 times more likely than in Baltimore City and five times more likely than in Montgomery County, for example. (5) The two counties with the highest incidence of bringing capital charges and sentencing defendants to death (Baltimore and Harford Counties) are also the two jurisdictions with the highest incidence of black defendant and white victim

homicides. (6) Although prosecutorial discretion is a key factor in determining who receives the death penalty, it is not a factor that can be assessed at the end of the process.

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

**Moratorium/Study:** Current: 2005: One bill withdrawn would have established a Maryland Commission

Previous Years: 2004 : One bill died which would have repealed the death penalty and all procedures related to the administration of the death penalty. Provided that individuals who have been sentenced to death may not be executed and should be considered to have a sentence of life imprisonment without the possibility of parole (HB521). Another bill died that would have established a Maryland Commission on Capital Punishment and provided guidance on the creation, composition, and functioning of the Commission (SB744). 2003: Two bills died that would establish a moratorium on the death penalty (HB16, SB12). Another bill died that would repeal the death penalty and replaced it with life imprisonment without the possibility of

parole (SB544). One bill died would establish a task force to study the need for prosecutorial guidelines and procedures to govern death penalty decisions (HB665). 2001 : One bill introduced would have abolished the death penalty; One bill introduced would have placed a moratorium on executions for 2 years; 2000 : One bill introduced would have placed a moratorium on executions; 1998 : One bill died that would have formed a Commission on the fair imposition of the death penalty.

**Capital Offenses and Procedures:**

Current: 2005: One bill failed sine die providing that specified laws relating to homicide, assault, and physical injury apply to a fetus; establishing that specified laws prohibiting homicide, assault, and physical injury against a fetus do not apply to acts committed by the woman pregnant with the fetus, acts committed during a specified abortion, or acts committed in accordance with specified medical practices; providing that a person may not be sentenced to death for the murder of a fetus; etc (HB699). Another bill failed that would repeal the death penalty; repealing procedures and requirements related to the death penalty; providing that specified inmates who have been sentenced to death may not be executed and shall be considered as having received a sentence of life imprisonment without the possibility of parole under specified circumstances; etc (HB666).

One bill failed sine die that would have provided that a specified defendant found guilty of murder in the first degree may be sentenced to death if the defendant murdered a law enforcement officer while the officer was not on duty if the murder was committed in retaliation for specified actions. including correctional officers in the definition of "law enforcement officer" for specified purposes. etc (SB729).

Previous Years: 2004 : One failed bill would have provided that a defendant found guilty of first degree murder may be sentenced to death if the defendant murdered an off duty law enforcement officer if the murder was committed in retaliation for the officer's actions while on duty (HB250, SB658). Another bill that died made the first degree murder of victims, witnesses, and specified individuals in the course of committing or attempting to commit specified crimes relating to the murdered individuals' official duties or participation in specified proceedings, reports, or investigations an aggravating factor for the purpose of imposing the death penalty (HB301, SB181).

**Aggravating and Mitigating Circumstances:**

Current: 2005: One bill withdrawn provided that a defendant found guilty of murder in the first degree may be sentenced to death under specified circumstances if that defendant murdered a law enforcement officer while the officer was not on duty and the murder was committed in retaliation for the officer's actions while on duty (HB173). Three other withdrawn or failed bills made the first degree murder of victims, witnesses, and specified individuals in the course of committing or attempting to commit specified crimes relating to the murdered individuals' official duties or participation in specified proceedings, reports, or investigations an aggravating factor for the purpose of imposing the death penalty (SB219 HB246 HB133). One bill failed that added to the list of aggravating circumstances for considering imposition of a death sentence for the crime of murder in the first degree; providing that it is an aggravating circumstance if the victim, whom the defendant murdered, was a person eligible for relief under an existing temporary ex parte order or a protective order; and providing that under specified circumstances,

specified provisions of law can be applied to a defendant who is not a principal in the first degree (HB493). One bill withdrawn would have added the commission of three or more murders in the first degree within a 4-year period to the list of aggravating circumstances a court or jury is required to consider before a defendant can be sentenced to death (HB1170).

Previous Years: 2004 : One bill that failed would have added to the list of aggravating circumstances considered by a court or jury in capital cases the commission of more than one murder within a specified period of time (HB244, SB287). Another failed bill added to the list of aggravating circumstances considered by a court or jury in capital cases the murder of a witness or a family member of the witness in retaliation for testifying in specific proceedings (HB248). Another failed bill would have added to the list of aggravating circumstances to be considered by the judge or jury in a death penalty case the commission of three or more murders in the first-degree within a four (4) year period (HB947). Another failed bill would have added to the list of aggravating circumstances to be considered by the judge or jury in a death penalty case the murder of a prosecutor (HB1081). A failed bill would have added to the list of aggravating circumstances to be considered by the judge or jury in a death penalty case the murder of a person who was eligible for relief under existing temporary ex parte order or a protective order.

Provides that specified provisions of law can be applied to a defendant who is not a principal in the first degree (HB1231).

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

Current: 2005: One bill signed into action by the Governor authorizes the collection of DNA samples at the time of sentencing and at a suitable location in a courthouse following the imposition of sentence; etc (HB240).

Previous Years: 2003: One bill vetoed by the Governor would have clarified under what circumstances a court may order DNA testing; required a court to make specified orders to specified law enforcement agencies when it orders DNA testing; authorized a court to make specified orders regarding DNA testing when it orders DNA testing (HB575).

**Crime Labs and  
Medical Examiner  
Offices:**

Current: None.

Previous Years: None.

**Counsel  
Qualifications,  
Training and  
Competency:**

Current: None.

Previous Years: None.

**Counsel  
Compensation:**

Current: None.

Previous Years: 2003: One bill introduced establishes a task force to study the need for prosecutorial guidelines and procedures to govern death penalty decisions (HB665).

**Judges and Juries:** Current: None.

Previous Years: None.

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

Previous Years: 1999 : One bill died that would have conducted a study of the administration of the death penalty in the state for the purpose of determining the extent of racial discrimination in the death penalty process.

**Juvenile Offenders:** Current: inapplicable

Previous Years: inapplicable

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

Previous Years: inapplicable

**Special Notes-Clemency:** Current: None

Previous Years: 2004 : One bill failed that would have required the Governor to notify specified persons at least sixty (60) days in advance of granting a commutation of sentence, pardon, or remission of sentence and request each to provide written comments to the Governor about the proposed commutation, pardon, or remission of sentence (HB135).

**Special Notes-Prosecutorial Misconduct:** Current: None

Previous Years: 2004 : One bill which failed would have prohibited a defendant from being sentenced to death when his/her conviction was reversed by the Court of Appeals and the Court made a finding on prosecutorial misconduct (HB985).

**Special Notes:** Current: 2005: One bill failed that required a custodial interrogation in cases relating to a criminal investigation of a crime punishable by death to be electronically recorded except under specified circumstances; and required a police officer to advise an individual of specified rights and warnings before a specified custodial interrogation (HB46).

**Previous Years: 2004 One bill which failed required a custodial interrogation involving a capital offense to be recorded under specified circumstances. Requires police officer to advise a specified individual of specified rights and warnings prior to the custodial interrogation (HB118). One bill that failed sine die provided that an individual may not be sentenced to death for the murder of an unborn child (HB802). Cross filed with (SB349).**

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

Baltimore City Bar Association, Executive Committee  
City of Baltimore  
City of Mt. Rainier  
City of Takoma Park  
County of Montgomery  
County of Prince George's  
Maryland Criminal Defense Lawyers Association  
Maryland House of Delegates  
Maryland Senate, Judicial Proceedings Committee  
Office of the Public Defender (Baltimore)

**\*\*Last Updated July 7, 2005**