

# MISSISSIPPI

## STATISTICAL INFORMATION

Current Governor: Haley Barbour  
Term of Office: Jan. 2004-Jan. 2008

Legislative Term: Jan. - Apr.

Total Inmate Pop.

(As of 6/1/05): 24,869      White: 31.8%    Black: 67.2%    Latino/a: .6%    Other: .4%

Death Row Pop.

(As of 6/28/05): 70      White: 33      Black: 36      Latino/a:0      Other: 1

EXECUTIONS:

Since 1976: 6      White: 3      Black: 3      Latino/a: 0      Other: 0  
(As of 6/28/05)

Carried out in 2003: 0

Carried out in 2004: 0

Carried out in 2005: 0      Scheduled for 2005: 0  
(As of 6/28/05)

## 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: 97

Sentence/Conviction

overturned (minus  
exonerations): 93

Sentence reduced: 0

Exonerations: 1

Other: 3

## 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 act failed that would abolish the death penalty on January 1, 2013, and to provide that no sentence of death shall be imposed on or after January 1, 2006. to amend sections 97-3-21, 99-19-101 and 99-35-135, Mississippi code of 1972, in conformity thereto. to repeal sections 99-19-51, 99-19-53, 99-19-55, 99-19-57, 99-19-103 and 99-19-105, Mississippi code of 1972, which provide for the execution of the death sentence, instructions regarding the death penalty and judicial review of the death penalty. and for related purposes (HB72). A similar bill failed that would provide a moratorium on the imposition of the death penalty for the purpose of completing a study on the impact of the death penalty. to create the death penalty impact committee and prescribe its membership and duties. to amend Sections 97-3-21, 99-19-51, 99-19-53, 99-19-55, 99-19-57, 99-19-101, 99-19-103 and 99-19-105, Mississippi Code of 1972, in conformity to the provisions of this act. and for related purposes (HB88). Another failed bill eliminated death as a penalty for capital murder (SB2047).

**Previous Years: 2004:** One bill died that would have abolished the death penalty on January 1, 2012. Provides that no sentence of death should be imposed on or after January 1, 2005 (HB133). One bill failed sine die that would have imposed a moratorium on the death penalty and the formation of a death penalty impact study committee (HB139). Another bill died that would have abolished the death penalty and imposed hard labor in its place (HB684). Another bill failed in committee abolishing the death penalty on July 1, 2004 and providing that no death sentence should be given on or after July 1, 2004 (HB810). **2003:** One bill died would institute a moratorium on executions and create a study commission (HB269). Another bill died would abolish the death penalty by 2012 and prohibit death sentences after 1/1/04 (HB170). Another bill died abolishes the death penalty and imposes life without parole with hard labor (HB814). Another bill died that would repeal the death penalty (SB2139). **2002:** One bill introduced would have abolished the death penalty and instituted hard labor (HB37); One bill introduced would have abolished the

death penalty by 2013 and prohibited death sentences after 2003 (HB218); One bill would have repealed the death penalty (SB2478); One bill introduced would have placed a moratorium on executions and created a commission to study the State's death penalty system (HB413). **2001:** Two bills introduced would have abolished the death penalty (one would have instituted hard labor); One bill introduced would have placed a moratorium on executions and created a commission to study the State's death penalty system; One bill would have abolished the death penalty by 2013 and prohibited death sentences after 2002.

**Capital Offenses and Procedures:** **Current: 2005:** One bill died that provided for the death penalty in statutory rape cases where the victim is under the age of 14 years and the defendant is 18 years of age or older; and for related purposes (HB941). Another bill died that provided that multiple murders shall be capital murder. and for related purposes (HB943).

Previous Years: 2004 : One bill failed sine die that would have provided that the murder of two or more human beings by the same person is capital murder (HB1164). Another bill failed which would have provided that multiple murders shall be considered capital murder (HB1329). Another bill failed that provided for the imposition of the death penalty in statutory rape cases where the victim was under the age of 14 and the defendant was 18 years or older (HB1331). Another bill failed that provided for the inclusion of lesser included offenses in murder and capital murder cases (HB1559). Another bill failed which would have eliminated death as a penalty for capital murder (SB2248).

**Aggravating and Mitigating Circumstances:**

Current: None

Previous Years: 2004 : One bill died that provided that a defendant's mental retardation is a mitigating factor in death penalty cases (HB136). One bill failed which would have provided that special and senior judges are considered "peace officers" for the purpose of determining aggravating factors in a capital case (SB2438).

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

Current: 2005: One bill failed that would amend Sections 99-39-5 and 99-39-9, Mississippi Code of 1972, to provide for post-conviction motions for DNA for all capital death penalty cases. and for related purposes (HB73). One bill died that would provide that DNA testing shall be performed on all convicted felons; to provide that such information shall be maintained separate from sex offender information; to provide for the taking of DNA sample; to provide for the use of such information in criminal cases; and for related purposes (HB882). Another bill died that would create the Mississippi Post Conviction DNA Testing Act to provide that convicted felons may apply for DNA testing for exculpatory purposes under certain circumstances, to provide for notice to various parties, to provide for court review, to provide for laboratory selection and for related purposes (SB2901).

Previous Years: 2004 : One bill failed sine die that provided that all prisoners in custody for a capital death penalty conviction have the right to file a post-conviction motion for DNA testing (HB235). Another bill failed that provided that any convicted offender may request DNA testing to prove his innocence (HB951). 2003: One bill died that would have provided for post-conviction DNA testing (HB169).

**Crime Labs and Medical Examiner Offices:**

Current: None.

Previous Years: None.

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

Current: None.

Previous Years: *2003*: One bill died that would, among other things, create qualifications for attorneys in the Mississippi Office of Death Penalty Defense Counsel (SB2155). *2002*: One bill introduced would have created the MS Office of Death Penalty Defense Counsel, provided qualification requirements for the attorneys in the office and provided for their compensation (SB2203); One bill would have provided for the revision of filing limitations for appointment of counsel and revised personnel of the Office of Post-Conviction Counsel (HB715). *2001*: One bill introduced would have created a statewide Public Defender Service; *1998*: One bill died that would have required the state bar to develop a list of attorneys who are experienced in representing capital defendants, encouraged the circuit judges to appoint an attorney from the list, and paid these attorneys an hourly rate based on the salary of district attorneys.

**Counsel**  
**Compensation:**

Current: None.

Previous Years: *2002*: Two bills were enacted without the Governor's signature which provide for appropriations for the Office of Capital Post-Conviction Counsel (Chapter Nos. 116 and 118 of 2002); One bill was signed into law which provides that certain portions of fines imposed will be distributed into the Capital Defense Counsel Fund (Chapter No. 622 of 2002);*2001*: One bill signed into law that revises the manner of payment and appointment of post-conviction counsel.

**Judges and Juries:**

Current: None.

Previous Years: *2004*: One bill failed which would have provided that special and senior judges are considered "peace officers" for the purpose of determining aggravating factors in a capital case (SB2438).

**Racial and Ethnic**  
**Minorities:**

Current: *2005*: One bill died that would create an act to amend section 99-19-101, Mississippi Code of 1972, to provide that a sentence of death shall not be imposed when evidence establishes racial bias in the prosecution or sentencing. and for related purposes (HB8).

Previous Years: *2004*: One bill died that provided that a death sentence shall not be imposed when evidence establishes racial bias in the prosecution or sentencing (HB134). *2003*: One bill died would ban the death penalty when evidence establishes racial bias in prosecution or sentencing (HB217). *2002*: One bill introduced would have prohibited the death penalty where the defendant could make a prima facie showing that race was a factor in the State's seeking a death sentence (HB168). *2001* One bill introduced would have prohibited the death penalty where the defendant could make a prima facie showing that race was a factor in the State's seeking death.

**Juvenile Offenders:** Current: 2005: Two bills failed that would have created an act to amend Section 99-19-101, Mississippi Code of 1972, to eliminate the death penalty for individuals who are under the age of eighteen years, and for related purposes (HB87, HB7).

Previous Years: 2004: Two bills died in committee that would have eliminated the death penalty for individuals under the age of eighteen (HB135, HB452). 2003: One bill died banning the imposition of the death penalty on offenders under the age of 18 or with an IQ below 70 (HB216). 2002: One bill introduced would have prohibited the death penalty for defendants under the age of 18 at the time of the offense and for mentally retarded defendants (HB167). 2001: One bill introduced would have prohibited the death penalty for defendants under the age of 18 at the time of the offense and for mentally retarded defendants.

**Mental Retardation, Mental Disability and Mental Competency:** Current: 2005: One bill died that would create an act to provide that defendants who are determined mentally retarded or mentally challenged shall not be eligible for the death penalty and to provide that a defendant's mental retardation is a mitigating factor in death penalty cases; and for related purposes (HB253). Another bill died that would eliminate the death penalty for persons who are mentally retarded; to define mental retardation; to provide proceedings to determine mental retardation; to provide for the commutation of death sentences for persons who are mentally retarded (HB512). Another bill failed that would eliminate the death penalty for individuals who are mentally retarded and for related purposes (SB2397).

Previous Years: 2004: One bill died that provided that a defendant's mental retardation is a mitigating factor in death penalty cases (HB136). Another bill died in committee that excluded defendants who are determined to be mentally retarded or mentally challenged from the imposition of the death penalty (HB137). Two more bills failed that would have eliminated the death penalty for persons who are mentally retarded (HB1068, SB2226). 2003: Two bills introduced that would prohibit executing offenders with mental retardation (HB1377, SB2503, SB2133). One bill introduced would ban the imposition of the death penalty on offenders under the age of 18 or with an IQ below 70 (HB216). Another bill introduced abolishes the death penalty for mentally retarded or mentally challenged offenders (HB315). Another bill introduced allows mental retardation to be a mitigating factor in death penalty cases (HB316). All bills died in committee. 2002: Two bills would have prohibited the death penalty for the mentally retarded (SB2307, SB2469). 2000: One bill introduced

would have prohibited the death penalty for mentally retarded defendants; 1999: One bill died that would have eliminated the death penalty for mentally retarded defendants; 1998: One bill died that would have prohibited execution of the mentally retarded; 1997: One bill died that would have eliminated the death penalty for mentally retarded defendants.

**Special Notes:**

**Current: 2005: One bill died that would amend sections 99-19-51 and 99-19-55, Mississippi Code of 1972, to remove the requirement that licensed physicians participate in administering an execution. and for related purposes (HB64).**

**Previous Years: 2004 : One bill failed that would have revised filing limitations by requiring that post-conviction relief in capital cases be filed within one (1) year upon judgment of death becoming final and a writ of certiorari to the United States Supreme Court having been of the time for filing such petition having expired (HB1069). One billed died in committee that would have removed the requirement that licensed physicians participate in administering executions (HB138).**

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

None.

**\*\*Last Updated on June 28, 2005**