

Study: no

HISTORY OF LEGISLATION ADDRESSING ABA ISSUES

Moratorium/Study: Current: 2005: One bill failed that would amend the code of laws of South Carolina, 1976, by adding Article 6 to Chapter 3, Title 24 so as to enact the Death Penalty Moratorium Act, create the Commission on the Death Penalty, provide for its members, their appointment, powers and duties, and provide that the state shall not carry out a sentence of death imposed under state law until the general assembly considers the final findings and recommendations of the commission on the death penalty in the report submitted under this article, and enacts legislation repealing this article and implementing or rejecting the guidelines and procedures recommended by the commission (HB3654).

Previous Years: 2003: One bill introduced provides for a moratorium on executions for two years and establishes the Commission on the Death Penalty to study the South Carolina Death Penalty (HB4065).

Capital Offenses and Procedures:

Current: None.

Previous Years: None.

Aggravating and Mitigating Circumstances:

Current: 2005: One bill failed sine die that would amend Section 16-3-20 of the 1976 Code, by adding arson to the list of crimes included in the statutory aggravating circumstances for purposes of the death penalty (SB134). Another bill failed sine die that would amend section 16-3-20, as amended, Code of Laws of South Carolina, 1976, relating to the punishment for murder, so as to include as a separate aggravating circumstance which may be considered in the determination of whether the death penalty may be imposed, a murder of a person's spouse while the person is subject to a valid order of protection, the person is violating a condition of bond, or the person is violating a restraining order and the murder of a person's spouse if the person has a prior conviction for criminal domestic violence involving the same victim (HB3260).

Previous Years: 2004 : One bill failed which would have included as a separate aggravating circumstance which may be considered in the determination of whether the death penalty may be imposed, a murder of a person's spouse while the person's spouse while the person is subject to a valid order protection, the person is violating a condition of bond, or the person is violating a restraining order and the murder of a person's spouse if the person has a prior conviction for criminal violence (HB5370).

DNA Testing and Preservation of Material Evidence:

Current: 2005: One bill died that provided that a person in custody after conviction may apply to the court for certain forensic DNA testing, provides for the duties and responsibilities of a court upon receipt of an application for DNA testing, provides preservation of biological material secured in connection with a criminal case for so long as the material may have probative value as evidence (HB3657).

Previous Years: 2004 : One bill died that would have provided a comparative samples procedure for a person who has been convicted and sentenced for a felony to have any evidence that is in the possession or control of the state that is related to the investigation or prosecution that resulted in a conviction to undergo DNA testing that may lead to the reconsideration of the conviction (SB1171).

**Crime Lab 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: None.

Judges and Juries:

Current: None.

Previous Years: None.

**Racial and Ethnic
Minorities:**

Current: None.

Previous Years: None.

Juvenile Offenders:

Current: None.

Previous Years: 2001-02 : Two bills introduced would prohibit the death penalty for defendants 18 or younger at the time of the offense (SB236, HB3463); 1999 : One bill introduced would have prohibited a death sentence when the offender was less than 18 at the time of the offense.

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

Current: None.

Previous Years: 2003: One bill introduced provides that a person convicted of murder who was mentally retarded at the time of the offense must not be sentenced to death, but must be sentenced to life imprisonment; relates to punishment for murder, so as to delete mental retardation as a mitigating circumstance (HB3165).

Special Notes: Jury Current: None
Lists

Previous Years: 2004 : One bill died that would have compiled a jury list from the list of persons holding a valid driver's license (H4783).

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

none

****Last Updated on July 6, 2005**