

TEXAS

STATISTICAL INFORMATION

Current Governor: Rick Perry
Term of Office: Jan. 2003 - Jan. 2007

Legislative Term: No Regular 2004 Session

Total Inmate Pop.
(As of 6/28/05): 169,110 **White: 31%** **Black: 44%** **Latino/a: 25%** **Other: 1%**

Death Row Pop.
(As of 4/1/05): 441 **White: 136** **Black: 179** **Latino/a: 121** **Other: 5**

EXECUTIONS
Since 1976: 345 **White: 175** **Black: 117** **Latino/a: 49** **Other: 4**
(As of 6/28/05)

Carried out in 2003: 24

Carried out in 2004: 23

Carried out in 2005: 9 **Scheduled for 2007**
(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: 151

Sentence/Conviction overturned (minus exonerations): 98

Sentence reduced: 45

Exoneration: 7

Other: 1

RELATED STATUTORY PROVISIONS:

Life without Parole: no

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:** Two bills failed proposing a constitutional amendment relating to a moratorium on the execution of persons convicted of capital offenses (HJR73, HJR14). Another two bills failed relating to the creation of a commission to study capital punishment in Texas (HB493, SB544). Another bill failed proposing a constitutional amendment establishing a moratorium in death penalty cases in which analyses performed by a crime laboratory operated by the City of Houston Police Department were admitted into evidence (HJR24). Another bill failed relating to the creation of a commission to study capital punishment in Texas and to a moratorium on executions (HB432). One bill failed relating to the abolition of the death penalty (HB452).

Previous Years: 2003: One bill died that proposes a constitutional amendment relating to a moratorium on executions (SJR12, HJR22, HB357). Another bill died that creates the Texas Capital Punishment Commission to study capital punishment in Texas concentrating particularly on legal representation of indigent inmates, the certainty of the guilt of convicted individuals and the ability of new technologies, such as DNA testing to ensure that certainty, race as a factor in the decision-making process, and the sufficiency of appellate review of capital convictions (HB866). Two bills died that propose to abolish the death penalty (HB343, HB345). Another bill that died creates a commission to study capital punishment in Texas and provides for a moratorium on executions until Sept. 1, 2005 (HB357). Another bill died that prohibits the death penalty when the offender's guilt is in doubt (HB380). Another bill that died adds life without parole as a sentencing option for a capital offense (HB590, SB348). Another bill creates a commission to study capital punishment in Texas (SB444). Another bill that died sine die proposes a constitutional amendment moratorium on death penalty cases in which analyses performed by a crime laboratory operated by the City of Houston Police Dept. were admitted into evidence (HJR6). **2001:** Three bills introduced would have placed a two-year moratorium on executions and created a commission to study the state death penalty system; One bill introduced would have created a commission to study capital punishment in the state.

Capital Offenses and Procedures: offense of capital murder. This bill amends the Penal Code to provide that it is capital murder to murder a judicial officer if the murder is in retaliation for or on account of the service or status of the victim as a judge or justice of the supreme court, the court of criminal appeals, a court of appeals, a district court, a criminal district court, a constitutional county court, a statutory county court, or a municipal court (SB1791). One bill failed relating to the murder of a commissioned security officer as a capital offense (HB966). One bill failed relating to the punishment for a capital offense. Amends life sentence provision to include life without parole and changes jury instruction. Redefines a sentence of Life to mean a sentence of Life without Parole (HB456). Four bills failed relating to the punishment for a capital offense (HB454, HB284, HB66, SB60). Another bill failed relating to the decertification of a capital case (SB741). One bill failed relating to pre-trial procedures in a criminal case (SB1218). One bill failed relating to the sentencing procedure in capital felony cases (HB1265).

Previous Years: None.

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

Current: 2005: One bill failed relating to information held by a governmental body regarding forensic evidence used in the trial of a person sentenced to death if the evidence was tested by a forensic laboratory operated by the police department in certain municipalities (SB1200). Another bill passed the Senate but failed in the House relating to the creation of a commission to ensure the quality of forensic science (SB1263). One bill failed relating to the establishment of regional DNA laboratories (HB1788). One bill failed relating to the requirements for post-conviction DNA testing (SB680). One bill failed relating to disposal of an exhibit in a capital case. Disposal of evidence by clerk of the court (HB48). *See also Crime Labs and Medical Examiner Offices (HB1068).*

Previous Years: 2003: One bill signed into effect by the governor requires that blood samples be taken and the DNA information be placed in the state DNA database, from those convicted of capital murder in the future as well as those currently incarcerated for capital murder (HB562). Another bill signed by the governor provides that a court may order forensic DNA testing if the court finds that the evidence still exists and has not been altered or tampered with, identity was an issue at trial, the person would not have been convicted had DNA tests previously been performed, and if the request is not made to unreasonably delay the execution of the sentence (HB1011).

**Crime Labs and
Medical Examiner
Offices:**

Current: 2005: One bill signed into effect by the Governor relates to evidence and testimony based on forensic analysis, crime laboratory accreditation, and DNA testing and records (HB1068). *See also Moratorium/Study (HJR24).*

Previous Years: None.

**Counsel
Qualifications,
Training and
Competency:**

Current: 2005: One bill was introduced relating to the qualifications and appointment of counsel for indigent defendants in capital cases (HB268).

Previous Years: 2003: One bill died relates to standards of competency for attorneys appointed as counsel to indigent applicants in certain habeas corpus proceedings (HB665). **2001 :** Texas Defense Act signed into law establishes standards for appointment of defense lawyers, requires indigent defendants be provided with an attorney no later than five days after arrest, and provides funding for other indigent defense programs; **1999 :** One bill signed into law changes procedures for state habeas corpus in capital cases by transferring the responsibility of appointing counsel from the Texas Criminal Appeals Court to the convicting trial court; One bill passed but vetoed that would have provided an indigent defendant with counsel within twenty days of a request.

**Counsel
Compensation:**

Current: None.

of appointing attorneys to represent death row inmates in habeas proceedings (SB1045, SB727).

Judges and Juries:

Current: 2005: One bill failed relating to jury selection in capital cases (HB696). Another bill failed relating to jury selection in capital cases. Requires separate jury for punishment/sentencing stage (HB408).

Previous Years: None.

Racial and Ethnic Minorities:

Current: None.

Previous Years: 2003: One bill died sine die that provides for analysis of each capital case by the Criminal Justice Policy Council and a determination on whether bias was a factor in either the seeking of capital murder charges or the sentencing determination (HB370). 2001 : One bill signed into law prohibits the use of the defendant's race as a factor in determining whether he or she is likely to commit future crimes; 1999 : One bill died that would have established the right to a pretrial hearing to determine whether the decision to seek a death sentence was based on a significant part on the race of the defendant or victim -- if established, the prosecution would not have been able to proceed with a capital case.

Juvenile Offenders:

Current: 2005: Four bills failed relating to the punishment for a capital felony committed by a person who is younger than 18 years of age at the time of committing the felony (HB434, SB226, HB61, HB65). Another bill failed relating to the punishment for a capital felony committed by a person who is younger than 18 years of age at the time of committing the felony. Raises DP eligibility age from 17 years to 18 (HB333).

Previous Years: 2003: One bill died that prohibits the execution of anyone who was younger than 18 years of age at the time of committing murder or the offense (SB218, HB127, HB372, HB1048). 2001 : One bill introduced would have provided that if the state intends to seek the death penalty for defendants under 18, there must be a hearing to determine if the defendant was sufficiently mature to understand his or her conduct at the time of the crime.

Mental Retardation, Mental Disability and Mental Competency:

Current: 2005: One bill failed relating to competency to be executed in a capital case (SB925). Three bills failed relating to the applicability of the death penalty to a capital offense committed by a person with mental retardation (HB419, SB65, SB231).

Previous Years: 2003: One bill died sine die that bans the imposition of the death penalty on mentally retarded offenders (HB614, SB332). Another bill that died sine die provides that a defendant convicted of a capital offense who is determined to be a person with mental retardation may not be sentenced to death (HB664). Another bill died that a defendant who, at the time of the commission of the offense, was a person with mental retardation may not be sentenced to death (SB163, SB389). 2001 : Three bills introduced (one was vetoed by the Gov.) would have prohibited the death penalty for mentally retarded defendants; 1999 : Three bills died that would have eliminated the death penalty for mentally retarded individuals.

Special Notes-Evidence:

Current: 2005: One bill signed into effect by the Governor relates to the introduction of certain evidence in the sentencing phase of a capital felony case (SB1507). One bill failed relating to the admissibility of certain evidence in capital cases in which the state seeks the death penalty. Admissability of Snitch testimony (HB431). One bill failed relating to the admissibility of certain confessions in capital cases. Makes videotaping necessary for confession to be abmissable in capital case (audio recording not sufficient for capital, but sufficient for non-capital) (HB450).

Special Notes-Wrongful Convictions/Imprisonment:

Current: 2005: Three bills failed relating to the creation of a commission to investigate and prevent wrongful convictions (SB1033, HB618, SB223). Two bills failed relating to compensation for wrongful imprisonment (SB225, SB86). Another bill failed relating to the administrative procedure for compensation for wrongful imprisonment (SB87).

**Special Notes-
Commutation of
Sentence:**

Current: 2005: One bill failed relating to considerations applicable to a decision to commute a sentence of death (HB2123). Another bill failed relating to the procedure applicable to a decision to commute a sentence of death (HB2125).

**Special Notes-
Clemency/Reprieve:**

Current: 2005: One bill failed relating to the manner in which the Board of Pardons and Paroles performs duties related to clemency in capital cases (SB548). One bill failed proposing a constitutional amendment authorizing the governor to grant one or more reprieves in a capital case (HJR11). Another bill failed relating to the authority of the governor to grant one or more reprieves in a capital case. Allows Gov. to grant more than one reprieve in a capital case (SB228).

**Special Notes-
Habeas Corpus:**

Current: 2005: One bill failed relating to standards for judicial review of certain writs of habeas corpus in capital cases. Amends standards for judicial review of subsequent writ habeas corpus (HB458).

**Special Notes-
Innocence:**

Current: 2005: One bill failed relating to consideration by the Board of Pardons and Paroles of an application for a pardon based on innocence (SB227).

Special Notes:

Current: 2005: One bill signed into effect by the Governor relates to showing the cause of death on the death certificate of an inmate of the Texas Department of Criminal Justice who is lawfully executed (HB93).

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

City of Rollingwood

City of Hays

Texas Criminal Defense Lawyers Association

Travis County

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