

FINAL BILL REPORT

SSB 5625

C 479 L 93

SYNOPSIS AS ENACTED

Brief Description: Prohibiting the death penalty for the mentally retarded.

SPONSORS: Senate Committee on Law & Justice (originally sponsored by Senators Prentice, Hargrove, Rinehart, A. Smith, Williams, Moyer, Drew, Prince, Erwin, Skratek and McAuliffe)

SENATE COMMITTEE ON LAW & JUSTICE

HOUSE COMMITTEE ON JUDICIARY

BACKGROUND:

In the United States Supreme Court case, Penry v. Lynaugh, 109 S. Ct. 2934 (1989), the court found that the Eighth Amendment prohibition against cruel and unusual punishment does not categorically forbid imposing a capital sentence upon a person diagnosed as being mentally retarded.

The capital punishment statutes in most states do not directly address the imposition of capital punishment on mentally retarded persons. The states of Georgia, Maryland, Kentucky, Tennessee and New Mexico prohibit execution of mentally retarded persons, and similar legislation is under consideration in the State of Florida.

SUMMARY:

A person convicted of aggravated first-degree murder who was mentally retarded at the time the crime was committed cannot be sentenced to death. A diagnosis of mental retardation must be documented by a court appointed licensed psychiatrist or licensed psychologist who is an expert in making such assessments. The defense must establish the existence of mental retardation by a preponderance of the evidence and the court must make a finding as to the existence of mental retardation. An individual is mentally retarded when that person has significantly subaverage general intellectual functioning concurrently with deficits in adaptive behavior. Adaptive behavior is defined as the effectiveness or degree with which an individual meets the standards of personal independence and social responsibility expected for his or her age. Significantly subaverage general intellectual functioning and deficits in adaptive behavior must be manifested during the developmental period between conception and the 18th birthday.

VOTES ON FINAL PASSAGE:

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| Senate | 41 | 6 | |
| House | 70 | 28 | (House amended) |
| Senate | 38 | 3 | (Senate concurred) |

EFFECTIVE: July 25, 1993