## Florida Senate - 2005

By Senator Smith

14-1253A-05 1 A bill to be entitled 2 An act relating to the death penalty; repealing Rule 3.203, Florida Rules of Criminal 3 Procedure, relating to imposition of the death 4 5 penalty; providing an effective date. б 7 WHEREAS, in 2001 section 921.137, Florida Statutes, was 8 created to establish the public policy for the State of Florida exempting mentally retarded persons convicted of 9 capital crimes from the death penalty, and 10 WHEREAS, section 921.137, Florida Statutes, is a 11 12 current and validly enacted law, and 13 WHEREAS, it is the public policy of this state that all persons charged by indictment of a capital crime shall be 14 tried before a death-qualified jury, and that hearings for the 15 determination of mental retardation shall be conducted as 16 17 prescribed in section 921.137, Florida Statutes, and 18 WHEREAS, the Florida Supreme Court in amendments to the Florida Rules of Criminal Procedure and Rules of Appellate 19 Procedure, 875 So.2d 563 (Fla. 2004) adopted Rule 3.203, which 20 21 contradicts and conflicts with the express provisions of 22 section 921.137, Florida Statutes, and 23 WHEREAS, the United States Supreme Court said in Atkins v. Virginia, 536 U.S. 304 (2002), that it ". . . found no 24 reason to disagree with the judgment of the legislatures which 25 26 have recently addressed the matter and concluded that death is 27 not a suitable punishment for a mentally retarded criminal," 2.8 and WHEREAS, all nine justices of the United States Supreme 29 Court in Atkins v. Virginia agreed that the "clearest and most 30 reliable objective evidence of contemporary values is the 31

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legislation enacted by this country's legislatures," NOW, THEREFORE, Be It Enacted by the Legislature of the State of Florida: Section 1. Rule 3.203, Florida Rules of Criminal Procedure, is repealed. Section 2. This act shall take effect upon becoming a law, but only if this act is enacted by a two-thirds vote of the membership of each house of the Legislature. \*\*\*\*\* SENATE SUMMARY Repeals Rule 3.203, Florida Rules of Criminal Procedure, relating to imposition of the death penalty, if the act is passed by a two-thirds vote of each house of the Legislature. 

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