

By Senator Smith

14-1489-06

1                                   A bill to be entitled

2           An act relating to the death penalty; repealing

3           Rule 3.203, Florida Rules of Criminal

4           Procedure, relating to imposition of the death

5           penalty; providing an effective date.

6

7           WHEREAS, in 2001 section 921.137, Florida Statutes, was

8           created to establish the public policy for the State of

9           Florida exempting mentally retarded persons convicted of

10          capital crimes from the death penalty, and

11          WHEREAS, section 921.137, Florida Statutes, is a

12          current and validly enacted law, and

13          WHEREAS, it is the public policy of this state that all

14          persons charged by indictment of a capital crime shall be

15          tried before a death-qualified jury, and that hearings for the

16          determination of mental retardation shall be conducted as

17          prescribed in section 921.137, Florida Statutes, and

18          WHEREAS, the Florida Supreme Court in amendments to the

19          Florida Rules of Criminal Procedure and Rules of Appellate

20          Procedure, 875 So.2d 563 (Fla. 2004) adopted Rule 3.203, which

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

24          v. Virginia, 536 U.S. 304 (2002), that it ". . . found no

25          reason to disagree with the judgment of the legislatures which

26          have recently addressed the matter and concluded that death is

27          not a suitable punishment for a mentally retarded criminal,"

28          and

29          WHEREAS, all nine justices of the United States Supreme

30          Court in Atkins v. Virginia agreed that the "clearest and most

31          reliable objective evidence of contemporary values is the

**CODING:** Words ~~stricken~~ are deletions; words underlined are additions.

1 | legislation enacted by this country's legislatures," NOW,  
2 | THEREFORE,

3 |  
4 | Be It Enacted by the Legislature of the State of Florida:

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6 |       Section 1. Rule 3.203, Florida Rules of Criminal  
7 | Procedure, is repealed.

8 |       Section 2. This act shall take effect upon becoming a  
9 | law, but only if this act is enacted by a two-thirds vote of  
10 | the membership of each house of the Legislature.

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12 |                   \*\*\*\*\*

13 |                   SENATE SUMMARY

14 |       Repeals Rule 3.203, Florida Rules of Criminal Procedure,  
15 |       relating to imposition of the death penalty, if the act  
16 |       is passed by a two-thirds vote of each house of the  
17 |       Legislature.

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