

HB 7205

2006

1 A bill to be entitled
2 An act relating to the death penalty; repealing Rule
3 3.203, Florida Rules of Criminal Procedure, relating to a
4 defendant's mental retardation as a bar to imposition of
5 the death penalty; providing an effective date.
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7 WHEREAS, in 2001 section 921.137, Florida Statutes, was
8 created to establish the public policy for the State of Florida
9 exempting mentally retarded persons convicted of capital crimes
10 from the death penalty, and

11 WHEREAS, section 921.137, Florida Statutes, is a current
12 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 tried
15 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 section
22 921.137, Florida Statutes, and

23 WHEREAS, the United States Supreme Court said in Atkins v.
24 Virginia, 536 U.S. 304 (2002), that it ". . . found no reason to
25 disagree with the judgment of the legislatures which have
26 recently addressed the matter and concluded that death is not a
27 suitable punishment for a mentally retarded criminal," and

28 WHEREAS, all nine justices of the United States Supreme

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29 | Court in Atkins agreed that the "clearest and most reliable
30 | objective evidence of contemporary values is the legislation
31 | enacted by this country's legislatures," NOW, THEREFORE,

32 |

33 | Be It Enacted by the Legislature of the State of Florida:

34 |

35 | Section 1. Rule 3.203, Florida Rules of Criminal
36 | Procedure, is repealed.

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