

Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas
91st General Assembly
Regular Session, 2017

A Bill

HOUSE BILL 2103

By: Representative V. Flowers

For An Act To Be Entitled

AN ACT CONCERNING THE SENTENCES AVAILABLE FOR A
CAPITAL OFFENSE; AND FOR OTHER PURPOSES.

Subtitle

CONCERNING THE SENTENCES AVAILABLE FOR A
CAPITAL OFFENSE.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. DO NOT CODIFY. Legislative findings.

The General Assembly finds that:

(1) Innocent people have been convicted and executed. Since 1976, over one thousand four hundred (1,400) executions occurred in the United States, but one hundred fifty-six (156) innocent people also were released from death row. That is one (1) exoneration for every ten (10) executions. On average, these innocent people spent between eleven (11) and twelve (12) years on death row before being exonerated. Sometimes, an exoneration comes too late. In 2009, the Texas case of Cameron Willingham gained international attention when it was revealed that the arson for which he was convicted was not arson after all. Texas had executed an innocent man. In 2014, South Carolina vacated the conviction of George Stinney, Jr., a fourteen (14) year old child who was executed in 1929 and is noted as the youngest person executed in the United States;

(2) The death penalty is unfair and arbitrary. Studies continually show race plays a major role in the application of the death penalty. A recent study by the University of Arkansas Bowen School of Law shows that blacks are over two times more likely than whites to receive the



death penalty for a charge of capital murder. Black men comprise less than eight percent (8%) of Arkansas's population, but make up fifty percent (50%) of Arkansas's death row inmates. Arkansas has executed one hundred ninety-five (195) persons since the state began to keep records. Of those persons executed, one hundred thirty-four (134) were black males, which is sixty-one percent (61%). Data shows that prosecutors are ten (10) times more likely to seek the death penalty with a black defendant accused of killing a white victim. In addition to being racially unfair, the death penalty targets lower-income offenders. The American Bar Association, a conservative group of nearly four hundred thousand (400,000) lawyers, has called for a halt on executions, due in part to the failure to provide adequate counsel and resources to capital defendants;

(3) The death penalty is more expensive than a sentence of life without parole. Arkansas has not yet studied the costs associated with the death penalty, but other states have found capital punishment to be a costly government program that diverts millions of dollars from programs and agencies that protect the public and save lives. The most rigorous cost study in the country found that a single death sentence in Maryland costs almost two million dollars (\$2,000,000) more than a similar non-death penalty case. And Maryland is not alone. Studies in more than a dozen states show that the death penalty can be up to six (6) times more expensive than a sentence of life without parole;

(4) A leading mental health group, Mental Health America, estimates that twenty percent (20%) of all death row inmates suffer from a severe mental illness. While the United States Supreme Court prohibited the execution of people with mental retardation in the case of Atkins v. Virginia, 536 U.S. 304 (2002), the United States Supreme Court has not yet ruled that it is unconstitutional to execute someone who suffered from a serious mental illness at the time of the crime. Further, poor people are executed much more often than wealthy murderers. Over ninety-nine percent (99%) of the people on death row are indigent, according to one United States Court of Appeals judge. Persons of all income levels commit murder, but poor people are the primary recipients of the death penalty;

(5) Capital punishment does not deter crime. A New York Times survey found that during the last twenty (20) years, the homicide rate in a state with the death penalty was forty-eight percent (48%) to one hundred

percent (100%) higher than in a state that does not have the death penalty. A recent poll showed police chiefs rank the death penalty last as a way of reducing violent crime – behind curbing drug use, hiring more police officers, and reducing guns on the street. Eighty-seven percent (87%) of criminology experts agree that the death penalty fails to deter crime.

SECTION 2. Arkansas Code § 5-4-615 is amended to read as follows:

5-4-615. Conviction – Punishments.

A person convicted of a capital offense shall be punished by ~~death by lethal injection~~ life imprisonment or by life imprisonment without parole pursuant to under this subchapter.

SECTION 3. Arkansas Code § 5-10-101(c)(1), concerning the penalties for capital murder, is amended to read as follows:

(c)(1) Capital murder is punishable as follows:

(A) If the defendant was eighteen (18) years of age or older at the time he or she committed the capital murder:

(i) ~~Death~~ Life imprisonment; or

(ii) Life imprisonment without parole under §§ 5-4-601 – 5-4-605, 5-4-607, and 5-4-608; or

(B) If the defendant was younger than eighteen (18) years of age at the time he or she committed the capital murder:

(i) Life imprisonment without parole as it is defined in § 5-4-606; or

(ii) Life imprisonment with the possibility of parole after serving a minimum of twenty-eight (28) years' imprisonment.

SECTION 4. Arkansas Code § 5-51-201(c), concerning the penalties for treason, is amended to read as follows:

(c) Treason is punishable by ~~death~~ life imprisonment or life imprisonment without parole pursuant to under §§ 5-4-601 – 5-4-605, 5-4-607, and 5-4-608.