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LEGISLATIVE COMMITTEE TO STUDY THE DEATH PENALTY AND RELATED DNA TESTING (A.C.R. 3)
2003 LEGISLATIVE SESSION REQUESTED MEASURES

BILL NO.	BDR NO.	AS INTRODUCED	ASSEMBLY AMENDMENT	CURRENT STATUS
A.B. 13	14-197	<p>This bill as introduced proposes to eliminate the three-judge panel in death-eligible cases where the sentencing jury is hung. In cases where the sentencing jury is unable to reach a unanimous verdict, this bill requires the judge to either sentence the defendant to life without the possibility of parole or to impanel a new sentencing jury.</p> <p>In addition, this bill requires district attorneys and district courts to report to the supreme court certain identifying information, such as the age, sex, and race of the defendant and victim, and information about the trial and proceedings.</p>	<p>The amendment amends the bill as a whole. The amended measure eliminates the use of a three-judge panel to decide the sentence of a person who pleads guilty to first-degree murder and for whom the death penalty is sought. In lieu of the panel, the trial judge must impanel a jury to conduct the penalty hearing. The original measure retained the three-judge panel for guilty plea cases.</p> <p>Assembly Bill 13 also eliminates the use of a three-judge panel when a person is found guilty of first-degree murder at trial and the death penalty is sought, but the jury is unable to reach a unanimous decision on the sentence.</p> <p>In both situations (guilty pleas and when the jury is unable to reach a unanimous decision) the bill requires the judge to enter a sentence of life without the possibility of parole. The original measure allowed for a new jury to be impaneled if the original jury deadlocked.</p> <p>Assembly Bill 13 as amended also requires each district attorney to submit an annual report to the Nevada Supreme Court with detailed information on cases filed during the prior calendar year that included a charge for murder or voluntary manslaughter. Information that must be provided in the report includes the age, gender, and race of the defendant and the victim; whether or not the prosecutor filed a notice of intent to seek the death penalty; and the final disposition of the case.</p> <p>The amended version deletes the portion of the original bill which would have required the district court to file a similar report.</p>	Pending in the Assembly Committee on Ways & Means.

BILL NO.	BDR NO.	AS INTRODUCED	ASSEMBLY AMENDMENT	CURRENT STATUS
A.B. 14	14-198	<p>This bill as introduced revises the order in which arguments are presented during the penalty hearing to require that the prosecutor open the argument, defense counsel may then respond, the state may then argue in rebuttal, and then defense counsel may conclude the argument in surrebuttal.</p> <p>The bill also makes changes to Nevada's statutory scheme of aggravating and mitigating circumstances. The Subcommittee chose to delete the aggravating circumstance it felt was the most ambiguous, by eliminating "that the murder was committed by a person who knowingly created a great risk of death to more than one person by means of a weapon, device or course of action which would normally be hazardous to the lives of more than one person."</p> <p>The Subcommittee also voted to recommend legislation to amend the current list of mitigating circumstances to allow for a mitigating factor related to a defendant who suffers from mental illness or has a history of psychological disturbance, and to require that the verdict form submitted to the jury must list all "other" potentially mitigating circumstances as an aide to jurors.</p>	<p>The amended bill retains the portion of the original bill revising the order in which parties present their arguments at the penalty hearing in cases in which the death penalty is sought. Under the bill, the district attorney opens the argument, followed by the defendant or his counsel. The district attorney may then argue in rebuttal, and the defendant or his counsel then concludes the argument in surrebuttal.</p> <p>The measure also retains from the original bill the language adding suffering from a mental illness as a new mitigating circumstance to be considered in cases involving the death penalty.</p> <p>In contrast to the original bill, the amended version does not delete the aggravating circumstance of "risk of death to more than one person."</p>	To be heard in the Senate Committee on Judiciary on 04/25/03.
A.B. 15	14-199	<p>The Subcommittee also voted to recommend legislation to amend the current list of mitigating circumstances to allow for a mitigating factor related to a defendant who suffers from mental illness or has a history of psychological disturbance, and to require that the verdict form submitted to the jury must list all "other" potentially mitigating circumstances as an aide to jurors.</p> <p>This bill as introduced prohibits a sentence of death for a person who is mentally retarded. Testimony from medical experts indicated that mental retardation compromises a legal defense as people with mental retardation often try and mask their disability. Further, testimony indicated that mental retardation manifests itself before a person reaches adulthood, usually before age 18, and that the condition does not come and go and differs from mental illness. Determining mental retardation may be accomplished by professionals, as there will be a history of special education services and poor academic and social performance.</p> <p>In addition, as you may be aware, the United States Supreme Court recently decided the <i>Atkins</i> case wherein the court held that it is an unconstitutional violation of the eighth amendment to execute a person who is mentally retarded. This decision was handed down after the A.C.R. 3 Subcommittee unanimously voted to draft this bill.</p>	<p>Procedures are established under which the court must hold a hearing to determine whether the defendant is mentally retarded, as defined under the bill. Based upon the evidence presented at the hearing, if the court determines that the defendant is mentally retarded, the court must make a finding that a sentence of death may not be imposed. Such a finding may be appealed to the Nevada Supreme Court.</p> <p>The same procedures apply if a defendant upon whom a sentence of death is imposed after the penalty phase if the defendant files a motion to set aside the penalty on the grounds of mental retardation. If the court determines the defendant is mentally retarded, it must set aside the sentence of death and order a new penalty hearing. Such a determination may be appealed by either party to the Nevada Supreme Court.</p> <p>Finally, the amendment modifies the original bill's definition of "mentally retarded" to define it as "significant subaverage general intellectual behavior and manifested during the development period." This language mirrors an existing definition under NRS 433.174</p>	To be heard in the Senate Committee on Judiciary on 04/25/03.

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BILL NO.	BDR NO.	AS INTRODUCED	ASSEMBLY AMENDMENT	CURRENT STATUS
A.B. 16	14-200	This bill as introduced is a redraft of Assembly Bill 354 from the 2001 Session. The proposed legislation, as drafted, allows for persons who have been convicted and sentenced to death, to file a post-conviction petition requesting genetic marker analysis of evidence within the possession of the state.	The amendment makes several technical corrections and also deletes the appropriation originally included in the measure.	Pending in the Assembly Committee on Ways & Means.
A.B. 17	1-201	This BDR raises the dollar limits for appointed counsel and provides for more resources to be allocated to the defense team to ensure an adequate defense.	In addition to the bill as originally provided, the amendment also increases the fee paid to appointed attorneys in capital cases from \$75 per hour as currently provided in NRS 7.125, to \$125 per hour. The amendment also provides that Section 3 of the bill only applies to cases in which the death penalty is sought. The amendment limits the defense team to two attorneys and any other person deemed necessary by the court (to mirror Supreme Court Rule 250).	To be heard in the Senate Committee on Judiciary on 04/26/03.
A.B. 118*	14-856	This measure changes the minimum age to receive a sentence of death from under 16 years of age at the time the crime is committed to under 18 years of age.	None.	To be heard in the Senate Committee on Judiciary on 04/26/03.

*AB 118 was not requested by the A.C.R. 3 Subcommittee; however, it was discussed by the Subcommittee and it is included for discussion purposes. The measure relates topically to the death penalty and is to be heard by the Senate Committee on Judiciary on April 26, 2003.

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