

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

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December 2, 2002

Please review this draft carefully to ensure that it is consistent with your intent.

This draft is based on 2001 LRB-3279, prepared for your office in the last session.

The U.S. Supreme Court, in *Atkins v. Virginia*, docket number 00-8452, decided June 20, 2002, held that it is cruel and unusual punishment in violation of the Eighth Amendment to the U.S. Constitution to execute persons who have mental retardation. The language in this draft barring the imposition of the death penalty on a person who has mental retardation is based on a Florida statute, section 921.137. The definition of mental retardation is taken from the Wisconsin Administrative Code, section HFS 73.07 (1) (b).

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