

ABSTRACT

DeMatteo, D., Marczyk, G., & Pich, M. *A national survey of state legislation defining mental retardation: Implications for policy and practice after Atkins*. Manuscript accepted to Behavioral Sciences & The Law.

In *Atkins v. Virginia* (2002), the U.S. Supreme Court held that the 8th Amendment prohibits executing offenders who are mentally retarded. Rather than imposing a uniform definition of mental retardation on the states, the Court charged each state with defining mental retardation in a constitutionally appropriate manner. Unfortunately, the Court's lack of meaningful guidance enabled states to potentially enact widely varying definitions of mental retardation, which could have far-reaching implications for capital defendants and the evaluators who conduct *Atkins*-type evaluations of those defendants. This project identified the statutory definitions of mental retardation in each state, and grouped the definitions based on degree of consistency with accepted clinical criteria for mental retardation. Results revealed that definitions of mental retardation vary considerably by state, with only a small portion of states using clinically accepted criteria sets. The majority of states, both overall and specifically among those states that currently permit the death penalty, use criteria sets for mental retardation that are not entirely consistent with accepted clinical standards. As such, it is not clear whether these states are effectuating the intent of *Atkins*. The implications of these findings for both policy and practice are discussed.