

**532.300 Prohibition against death sentence being sought or given on the basis of race -- Procedures for dealing with claims.**

- (1) No person shall be subject to or given a sentence of death that was sought on the basis of race.
- (2) A finding that race was the basis of the decision to seek a death sentence may be established if the court finds that race was a significant factor in decisions to seek the sentence of death in the Commonwealth at the time the death sentence was sought.
- (3) Evidence relevant to establish a finding that race was the basis of the decision to seek a death sentence may include statistical evidence or other evidence, or both, that death sentences were sought significantly more frequently:
  - (a) Upon persons of one race than upon persons of another race; or
  - (b) As punishment for capital offenses against persons of one race than as punishment for capital offenses against persons of another race.
- (4) The defendant shall state with particularity how the evidence supports a claim that racial considerations played a significant part in the decision to seek a death sentence in his or her case. The claim shall be raised by the defendant at the pre-trial conference. The court shall schedule a hearing on the claim and shall prescribe a time for the submission of evidence by both parties. If the court finds that race was the basis of the decision to seek the death sentence, the court shall order that a death sentence shall not be sought.
- (5) The defendant has the burden of proving by clear and convincing evidence that race was the basis of the decision to seek the death penalty. The Commonwealth may offer evidence in rebuttal of the claims or evidence of the defendant.

**Effective:** July 15, 1998

**History:** Created 1998 Ky. Acts ch. 252, sec. 1, effective July 15, 1998.