



**JEAN SCHMIDT  
STATE REPRESENTATIVE**

Chairman LaRe, Vice Chairman Swearingen, and Ranking Member LeLand, thank you for allowing me to testify on H.B. 183, ending the death penalty in Ohio.

Twenty years ago, on Halloween, this body debated the necessity of the Death Penalty. Difficulties with the electric chair forced a spirited debate over the moral, ethical, legal and fiscal issues embedded in putting someone to death. Being pro-life, I struggled with this, but I voted for it.

My main concern was how death row inmates at that time were housed. To me, commuting their sentence to life without parole afforded them a better life inside prison. Today they no longer are isolated from other inmates or their families. While they are separated from the general population, they have freedom of movement and family visits are face to face. Realizing that their life inside prison afforded them similar opportunities as the general population forced me to reexamine my conscience on this issue.

There are two main arguments for the death penalty: It deters violent crime, and allows detectives to get a confession. We know that the death penalty does not deter violent crime. States that have the death penalty have the same percentage of violent crime as states that do not. Keeping the death penalty on the table can lead to false confessions as in the case of the West Memphis Three. Further, states that have repealed the death penalty, New Jersey, for example, have had no issues securing convictions post-repeal.

There are numerous reasons to abolish the death penalty. The first is cost. When a prosecutor asks for a death penalty conviction the trial costs increase. A common misconception is that the lengthy appeals process is what makes the death penalty cost more. Seventy percent of the cost accrues from the trial alone. Once convicted the cost to house the felon is higher than if they were in the general population. The numerous appeals afforded to the prisoner and the time it takes to complete the appeals add enormous costs – all at taxpayers' expense.

Wrongful convictions do happen with alarming regularity. In Ohio we have overturned 11 death row convictions. Ohio has executed 56 people since reinstatement of the death penalty, this means that for every five executions, one person has been exonerated. Some may argue that this shows the system works. However, more often than not, outside organizations like the Innocent Project are responsible for finding these wrongful convictions; unfortunately the appeals process does not usually catch these errors. Sometimes it is luck or divine intervention that rights this wrong. Rickey Jackson, Ronnie Bridgeman, and Wiley Bridgeman would have been put to death if the US Supreme Court had not outlawed our conviction process in death penalty cases. In 1977, their sentence was changed to life without parole. Years later their convictions were overturned do to police misconduct and false testimony. Ricky Jackson served 39 years for a crime he clearly did not commit

Joe D'Ambrosio most likely would have been executed by now if not for the divine intervention of Father Neil Kookoothe who came to prison to console Joe over the death of his mother. Joe begged for the priest to take his case, not knowing the priest had been a surgical nurse and a lawyer before committing his life to God. The priest had powerful friends at Jones Day and Joe was afforded "rock star" attorneys to fight for his release.

Severity of the crime does not determine who receives a death sentence. The main determinants are the county in which the crime was committed, the county prosecutor, the race of the victim, and the defendant's access to adequate counsel. For these reasons, the death penalty is arbitrarily applied. Arbitrary application based on geography income and race make it more likely a violent felon will receive the death penalty. There are a disproportionate group of people of color that end up on death row.

In a death penalty system, racial bias works against defendants of color and in favor of cases involving white victims. Cases involving black victims are far less likely to result in a death sentence than cases involving white victims. The likelihood of a death sentence reduces further if the defendant is white.

And it doesn't stop there. Racial bias infects every stage of the capital process – from the prosecution to sentencing to execution. The Columbia Human Rights Law Review published a study of 599 aggravated murder charges in Hamilton County from January 1992 to August 2017. The researchers found “that a case with at least one white victim faced odds of being charged capitally that were 4.54 times the odds of a similarly situated case with no white victims.”

Public defenders do not have the same financial resources as prosecutors have. Public defenders are overworked and underpaid, often leaving defendants without adequate counsel. They also have limited finances to mount a just defense. Indigent defendants are more likely to end up on death row than people with money.

Currently, we do not have a method of execution that does not violate the Eighth Amendment. We have a history of botched executions. Most recently, Joseph Clark, May of 2006; Christopher Newton, May of 2007; and Romell Broom, September of 2009. That is why the governor has placed a moratorium on executions in our state.

Citizens are realizing the system does not work. A Terrance Poll taken in the Fall of 2020 shows that 59% of people surveyed stated they support replacing the Death Penalty with life without parole. It is clear that voters are now realizing we can hold offenders accountable without the death penalty.

Finally, a rising number of victim families realize putting someone to death does not help them heal. To be meaningful, justice should be fair, accurate, and healing for crime survivors and their families. The death penalty does none of those things. Capital punishment prolongs pain for the victims' families, dragging them through an agonizing and lengthy process that holds out false promise of healing through an execution – often resulting in a different sentence in the end.

In Ohio, people on death row now serve an average of 17 years and two months, before execution. This long process is traumatizing for victims' families, both because of the added time and stress that accompany capital cases and the high profile nature of these cases. Without the death penalty in the mix, the healing process can begin sooner, families can grieve in private – outside the spotlight of news cameras.

Victims of these violent crimes deserve support: grief counsel, financial assistance, and ongoing support. Prosecutors provide these services. Due to financial constraints, these usually end when the case is over. Perhaps the money saved by not prosecuting a death penalty case can be used to help these families heal.

To me this is a moral issue. If we profess to be pro-life how can we justify ending a life no matter the reason? Institutional confinement for the rest of a life is a just punishment. Society will be safe from the threat of the violent offenders. It saves taxpayer dollars, it eliminates racial disparity, and most importantly, it will prevent the possibility of executing an innocent person.

Mr. Chairman, I regret that my Joint Sponsor, the distinguished gentleman from Columbus, Representative Miller is unable to testify today. As you know, Representative Miller is in the US Army JAG Corps Reserves and has duty at the Pentagon today, but his written testimony has been submitted.

I would be happy to take any questions.