

Jeffrey M. Gamso

Senate Judiciary Committee
Senate Bill 101, Proponent Testimony
Written Testimony Only
13 February 2023

Dear Chairman Manning, Vice Chair Reynolds, Ranking Member Hicks-Hudson, and members of the Senate Judiciary Committee:

My name is Jeffrey Gamso; I live in South Euclid. Thank you for the opportunity to submit proponent testimony on Ohio Senate Bill 101.

Although I am Chair of the Board of the OTSE Action Fund, I write solely in my individual capacity as a lawyer who has worked on every side of death penalty cases – for defense, for prosecution, and for judges who had to evaluate and review and rule on death penalty cases and arguments. Here is some of what I have learned.

The death penalty aims to achieve the impossible. We cannot with certainty and accuracy, determine who deserves (if that word is even meaningful in this context) to be executed. Indeed, as the number of exonerations in criminal cases – and from death row – demonstrates, we cannot even ensure that only the factually guilty are convicted. And while we may not have hard proof of having executed an innocent person, it is a mathematical certainty that if we execute enough, it will happen. But beyond innocence, we cannot tell with certainty who are the worst of the worst people who have committed the worst of the worst offenses AND who are irredeemable.

The death penalty is inherently arbitrary. Are crimes and the criminals truly more heinous, more worthy of the ultimate punishment, when they occur in, say, Cuyahoga than Meigs County? Over the span of a couple of recent years, more people in Cuyahoga County, where I live, were sentenced to death than in any other county in the nation. Were crimes here really so much worse? Was it the particular enthusiasm of our elected prosecutor? The competence of our defense bar? As with geography, so with race. Study after study reveals that the murder of a white person is many times more likely to lead to a death sentence the murder of a black.

The death penalty is not a meaningful deterrent. Those who would commit aggravate murder do not first conduct a cost-benefit analysis. They do not refrain from killing because, while they'd willingly spend the rest of their lives in prison and die behind bars, they won't take a chance on a death sentence. That's simply not how it works. And while it's possible that the fear of execution prevented a killing sometime, there are documented cases of people who kill in the hope of execution. For those few, the death penalty is the cause, not a deterrent, a reward not punishment.

Finally, and perhaps most importantly. We do not show respect for life by taking the lives of those who kill. Section 2903.01 of the Ohio Revised Code defines Aggravated Murder, our capital offense, as the purposeful taking of another's life with prior calculation and design. Every execution is, by definition, the crime of aggravated murder. We are, or at least should be, better than that.

The death penalty is unnecessary, uncertain, expensive, racist, classist, and nearly random. It is inherently flawed and morally indefensible. It is one of the shames of Ohio.

Thank you for the opportunity to offer this testimony. I urge you to vote in support of S.B. 101.

Respectfully,

Jeffrey M. Gamso
1252 Homestead Road
South Euclid, OH 44121