



**State Representatives  
Ted Celeste & Nickie Antonio**

**House Bill 160  
Execution of Justice Bill  
Sponsor Testimony  
April 13, 2011**

Mr. Chairman, Ranking Member Winburn, we thank you for the opportunity to provide sponsor testimony on House Bill 160, The Execution of Justice Bill.

In his State of the State Address, Governor Kasich called for a discussion of sentencing reform. House Bill 160 not only addresses sentencing reform but it is also a way for our state to save hundreds of millions of dollars. The costs associated with adjudication for death row inmates are staggering. House Bill 160 has the potential to provide major financial savings at a time when we are facing an enormous budget deficit.

House Bill 160 – The Execution of Justice Bill – is bipartisan-supported legislation that would repeal the death penalty and replace it with the sentence of life without the possibility of parole.

There are several reasons we believe this ought to be a topic of open and honest discussion:

1. There are major financial savings possible with the elimination of the death penalty.
  - a. Cost studies in several states overwhelmingly agree that pursuing the death penalty is more costly than seeking an alternative sentence such as life without the possibility of parole. In Maryland, for example, it is up to three times more expensive to successfully seek the death penalty than it is to seek a sentence of life without parole (\$3 million and \$1.1 million, respectively).<sup>i</sup>
  - b. Similarly, a study of the lifetime costs of all homicides eligible (1,227) to receive the death penalty from 1978-1999 found the total cost (including all adjudication and prison costs) to Maryland taxpayers to be at least \$186 million.<sup>ii</sup>
  - c. During that time, Maryland issued the death penalty in 56 cases at a cost of \$107.3 million.<sup>iii</sup> Here in Ohio, we've issued the death penalty in 310 cases since 1982.<sup>iv</sup> If we apply the same numbers, we can estimate the cost of the death penalty in our state to be \$590,000,000 – over half a billion dollars.

- d. This estimate does not include the cost of capital-eligible cases in which the death penalty was unsuccessfully sought (\$71 million) *or* the cost of running Maryland's Capital Defender's Division (\$7.2 million).<sup>v</sup>
- e. The bifurcated trial process, the American Bar Association requirement of two defense attorneys per defendant as well as strict experience requirements, appeals processes that can last for decades, and a greater number of testifying experts and witnesses are all contributing factors to the higher cost of the death penalty.
- f. With 167 inmates currently on death row in Ohio, this could be a substantial costs-savings tool to the State.<sup>vi</sup> Not only that, but a sentence of life without the possibility of parole would provide closure for hundreds of victims' families whose agony has been prolonged due to several rounds of appeals.

While we believe this to be an issue of cost, it is perhaps more an issue of morality.

2. Recent advancements in DNA testing have demonstrated the presence of wrongful convictions.
  - a. Since 1973, at least 5 death row inmates in Ohio have been exonerated. Collectively, they have spent 57 years behind bars for crimes for which they were scheduled to be executed. A total of 138 death row inmates have been exonerated across the US.<sup>vii</sup>
  - b. Here with us today we have two people who have personal experience with wrongful convictions.
    - i. Derrick Jamison spent nearly two decades on death row. He was originally convicted and sentenced to death in 1985 based in part on the testimony of a co-defendant who received a lesser sentence in exchange for his testimony against him. Two federal courts ruled that the prosecution's actions denied Mr. Jamison of a fair trial, and in 2002, Ohio Common Pleas Judge Richard Niehaus dismissed all charges against Mr. Jamison after it was discovered that the prosecution had withheld critical eyewitness statements and other evidence from the defense.<sup>viii</sup>
    - ii. Melinda Dawson's former husband, Clarence Elkins, spent nearly eight years in prison after being wrongfully convicted of killing Ms. Dawson's mother. In 2005, DNA evidence was collected from another prison inmate – Earl Gene Mann – that linked him to the crime scene and proved Mr. Elkins' innocence. Mann pleaded guilty and is currently serving a life sentence.<sup>ix</sup>
3. Further, the disparity of how the death penalty is applied raises serious questions of equal treatment.
  - a. In a 2007 study of Ohio's death penalty conducted by the American Bar Association, the report found that "there is a need to improve the fairness and accuracy in Ohio's death penalty system." The study went so far as to call for

“a temporary suspension of executions...until such time as the State is able to appropriately address the issues and recommendations” in its report. <sup>x</sup>

- b. For example, offenders who kill Caucasian people are almost 4 times more likely to receive a death sentence than those who kill Black people. Currently, two-thirds of death row inmates in Ohio are there for the murders of White victims. <sup>xi</sup>
  - c. There is also a geographical disparity in where death sentences are handed out. More than half (56%) of death row inmates in Ohio come from just five counties (Hamilton, Cuyahoga, Franklin, Lucas, and Summit). Another 60% of Ohio counties have no residents on death row. <sup>xii</sup>
4. The final reason we believe this to be of great importance concerns deterrence.
- a. The notion behind this argument is that having the death penalty deters would-be-criminals from becoming perpetrators.
  - b. In fact, the opposite is true. From 1990 to 2007, the murder rate in states with the death penalty consistently exceeded the murder rate in states without the death penalty – from a 4% difference in 1990 to a 42% difference in 2007. <sup>xiii</sup>
  - c. These facts repudiate the misconception that having the death penalty reduces crime.

This issue has recently garnered attention from several distinguished public officials across our state and country. Terry Collins, former Director of the Department of Rehabilitation and Correction; Justice Paul Pfeiffer of The Ohio Supreme Court; and Justice John Paul Stevens of The US Supreme Court have all voiced their opposition to the death penalty. Former Ohio Attorney General and current Chancellor Jim Petro recently published a book on wrongful convictions and has become an advocate against the imprisonment of innocent people.

They join an enormous faith-based coalition encompassing dozens of churches, all of which oppose the death penalty – including The Catholic Conference of Ohio, The Conference of Catholic Bishops, The Alliance of Baptists, The Episcopal Church, The Evangelical Lutheran Church in America, The Presbyterian Church, The National Council of the Churches of Christ, and The United Methodist Church.

In closing, yesterday morning Ohio executed its third inmate of 2011. We are on track to execute more people than any other state in the country this year. <sup>xiv</sup>

Just last month, Illinois became the 16<sup>th</sup> state in the US to ban capital punishment. <sup>xv</sup> There is a strong shift in public opinion regarding capital punishment, with more Americans opposing it than ever before. In a November 2010 poll conducted by the Death Penalty Information Center, 61% of respondents favored a punishment other than the death penalty for murder. <sup>xvi</sup>

We believe now is the time to have an open and honest discussion about capital punishment in Ohio. There is a tremendous opportunity to save the State hundreds of millions of dollars, as well as ensure that justice is carried out in the most fair and accurate of ways.

We look forward to working with the members of the committee on this important bill.

We are happy to answer any questions. Thank you, Mr. Chairman.

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<sup>i</sup> The Cost of the Death Penalty in Maryland. March 2008. <<http://standdown.typepad.com/COST-Maryland-UrbanInst-2008.pdf>>.

<sup>ii</sup> Ibid.

<sup>iii</sup> Ibid.

<sup>iv</sup> 2010 Capital Crimes Annual Report. Ohio Attorney General Mike DeWine. <<http://www.ohioattorneygeneral.gov/files/Publications/Publications-for-Law-Enforcement/Capital-Crimes-Reports/2010-Capital-Crimes-Annual-Report>>.

<sup>v</sup> The Cost of the Death Penalty in Maryland. March 2008. <<http://standdown.typepad.com/COST-Maryland-UrbanInst-2008.pdf>>.

<sup>vi</sup> 2010 Capital Crimes Annual Report. Ohio Attorney General Mike DeWine. <<http://www.ohioattorneygeneral.gov/files/Publications/Publications-for-Law-Enforcement/Capital-Crimes-Reports/2010-Capital-Crimes-Annual-Report>>.

<sup>vii</sup> Death Penalty Information Center: Innocence and the Death Penalty. <<http://www.deathpenaltyinfo.org/innocence-and-death-penalty>>.

<sup>viii</sup> Jamison v. Collins, 291 F. 3d 380 (6<sup>th</sup> Cir. 2002).

<sup>ix</sup> The Innocence Project. <[http://www.innocenceproject.org/Content/Clarence\\_Elkins.php](http://www.innocenceproject.org/Content/Clarence_Elkins.php)>.

<sup>x</sup> "Evaluating Fairness and Accuracy in State Death Penalty Systems: The Ohio Death Penalty Assessment Report. An Analysis of Ohio's Death Penalty Laws, Procedures, and Practices." American Bar Association. September 2007. <<http://www.americanbar.org/content/dam/aba/migrated/moratorium/assessmentproject/ohio/executivesummary.authcheckdam.pdf>>.

<sup>xi</sup> Ibid.

<sup>xii</sup> Ibid.

<sup>xiii</sup> Death Penalty Information Center: Deterrence. <<http://www.deathpenaltyinfo.org/deterrence-states-without-death-penalty-have-had-consistently-lower-murder-rates>>.

<sup>xiv</sup> Death Penalty Information Center: Upcoming Executions. <<http://www.deathpenaltyinfo.org/upcoming-executions>>.

<sup>xv</sup> "Illinois Governor Signs Capital Punishment Ban. NY Times." 9 March 2011. <<http://www.nytimes.com/2011/03/10/us/10illinois.html>>.

<sup>xvi</sup> Death Penalty Information Center: Public Opinion About The Death Penalty. <<http://www.deathpenaltyinfo.org/public-opinion-about-death-penalty>>.