

Maryland moves to repeal state death penalty

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Last Wednesday, the Maryland State Senate voted in favor of repealing the state death penalty. The passage of SB 276 would make Maryland the sixth state in as many years to abolish the use of capital punishment and the 18th state in total to do away with the practice. The bill is currently headed to the state's House of Delegates where swift passage is expected. Democratic Governor Martin O'Malley will then be in a position to sign the bill into law.

Those in favor of repeal in the 27-20 vote were mostly Democrats, with only two Republicans signing on. The opposition was equally split along party lines.

In general, usages of the death penalty have been increasingly on the decline nationally in recent years, reflecting changing opinions within the population towards the practice. According to the Death Penalty Information Center, last year saw 77 prisoners sentenced to death nationally, down from 224 in 2000. Maryland has only executed five prisoners since the death penalty was found to be constitutional and reinstated in 1978.

One of the pieces of evidence considered during the Senate debate was a 2003 University of Maryland study which found that defendants convicted of killing white victims were two to three times more likely to be sentenced to death than those whose victims were African-American. In 2011, members of the American Bar Association reported that 99 percent of death row prisoners do not have the money to hire a lawyer and that many of them suffer from addiction, mental retardation, and severe cognitive impairments.

Many senators who voted in favor of the repeal focused on the so-called "efficiency" and cost-effectiveness of the measure. "It's time to end this ineffective and expensive practice and put our efforts behind crime fighting strategies that work," stated O'Malley upon the bill's passage through the House. In 2009, O'Malley sponsored a similar bill that limited

the state's ability to apply the death penalty to only specific cases.

The extremely vindictive and unprincipled attitudes of legislators voting in favor of repeal were on display. The *Baltimore Sun* cites Robert A. Zerkin (Democrat, Baltimore County) saying, "There are horrible monsters. If you were always 100 percent sure, I think we would all agree that they don't deserve to live." Democrat Brian E. Frosh (Montgomery County) chimed in with the statement, "Nobody listens to the stories of the folks who committed these horrible crimes without some wish for vengeance, but this is the right thing to do."

In voicing his objection to getting rid of the death penalty for those who kill police officers, Senator James Robey (Democrat, Howard County) expressed open contempt for keeping such individuals alive in prison, stating that they are "watching TV, they are eating three square meals a day, they are getting visits from family. The people who are rotting are the corpses in the ground." Robey's vengeful sentiments were echoed by Christopher Shank (Republican, Washington County), who emphasized that the death penalty should always be available for "crimes against humanity."

Such cost-benefit analyses are a far cry from a forceful opposition to capital punishment. Such views have nothing in common with the unequivocal words of early American opponents of the death penalty, such as Dr. Benjamin Rush or James Madison.

Rush, a friend of Benjamin Franklin's and a signatory to the Declaration of Independence, once stated, "An execution in a republic is like a human sacrifice in religion." For his part, Madison, the fourth US president, remarked, "I should not regret a fair and full trial of the entire abolition of capital punishment."

Governor O'Malley's words, on the other hand, indicate that sections of the political establishment are begrudgingly letting the death penalty go because it is

falling out of favor and state governments can no longer afford the costs associated with its use. The emphasis on “crime fighting strategies that work” is also illustrative, and must be understood in relation to the pending US Supreme Court case of *Maryland v. King*.

In *Maryland v. King*, the Court will determine whether or not to uphold an earlier decision within the state appellate court which ruled that a Maryland law allowing police officers to take DNA samples from arrested criminal suspects constitutes a violation of the Fourth Amendment’s “search and seizures” clause. The central issue being considered is the problem of DNA samples being taken prior to conviction in order to prosecute for additional criminal offenses unrelated to the original reason for making the arrest. Scientists and other researchers have also argued that maintaining databases of DNA samples allows unmitigated access to an individual’s “entire physiological identity,” providing information about susceptibility to disease and mental illness.

The Maryland DNA Collection Act was spearheaded by O’Malley back in 2009, and the governor has recently been pushing for an extension of the act so that collection can be used in a wider range of arrest cases.

In oral arguments before the Supreme Court, Maryland’s representatives have made the fraudulent claim that taking DNA samples constitutes a “minimal invasion” of privacy that is outweighed by its usefulness for combating crime and no different from taking someone’s fingerprints. The Obama administration has even made a special intervention to weigh in on behalf of Maryland’s case because the issue has serious implications for law enforcement in other states, as well as at the federal level.

Viewed in this light, Maryland’s move to repeal the death penalty appears to be a trade-off for maintaining the Collection Act and extending the state’s ability to pursue invasive measures. Rather than reflecting an opposition to the practice of capital punishment in principle, it is clear that Maryland representatives are preparing measures that would make for an overall increase in the state’s repressive capacities.

A report released in 2010 by the Justice Policy Institute, a nonprofit think tank based in Washington D.C., showed that although the general prisoner total in the US had decreased, Maryland had retained higher

levels by limiting the number of inmates released from its prison system.



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