



**Testimony for the Senate Judicial Proceedings Committee
SB 276 – Death Penalty Repeal and Appropriation from Savings to Aid Survivors of
Homicide Victims**

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SUPPORT

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The ACLU of Maryland urges a favorable report on SB 276, a bill that would repeal the death penalty in Maryland and appropriate the money saved to a fund for victims' families.

The time has come for Maryland to act on its values and priorities. By a margin of 62 percent to 30 percent, Marylanders say life without parole is an acceptable alternative to the death penalty, according to a January 2013 poll by Gonzales Research & Marketing Strategies. We value fairness and equality, and a criminal justice system that is not racially biased.

SB 276 is an important step to a more rational, reasonable and responsible criminal justice system. Repealing the death penalty would allow the state to eliminate racial and jurisdictional bias, reduce unnecessary costs, eliminate the risk that another innocent person may be convicted and sentenced to die, and help the survivors of homicide victims get the care they need.

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Maryland's death penalty is racially infected. At least seventy-five percent of all homicide victims in Maryland annually are African-American. Yet, in every Maryland murder that has resulted in an execution since 1978 – and in all pending death sentences – the victim was white.¹

A 2003 study commissioned by former Governor Parris Glendening found that the primary factors in determining whether a death sentence will be imposed in Maryland are the race of the victim and the jurisdiction of the crime.² “Death sentences are 23 times more likely in Baltimore County than in Baltimore City for similarly aggravated murders, and 14 times more likely in Baltimore County than in Montgomery County.”³ The 2008 Maryland Commission on Capital Punishment found similar disparities, and noted the corrosive effect this bias has on the public's confidence in our criminal justice system.

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The death penalty is a waste of taxpayers' money. In 2008, the Maryland Commission found that the costs associated with cases in which a death sentence is sought are substantially higher than the costs associated with cases in which a sentence of life without the possibility of parole is sought. Just one capital prosecution resulting in the death penalty costs our state about \$3 million, almost \$2 million more *per case* than the alternative we urge here today.⁴ As of 2008, the report calculated that having the death penalty had cost the State of Maryland \$186 million.

Furthermore, the 2009 amendments to the death penalty law added another layer of cost to the state. In capital cases jurors must now make decisions in three, rather than two, phases: the guilt

¹ See “Maryland's Death Penalty: Still Here, Still Unfair. More Arbitrary and Costly,” citing Maryland State Police data.

² *An Empirical Analysis of Maryland's Death Sentencing System with Respect to the Influence of Race and Legal Jurisdiction* (2003).

³ “Maryland's Death Penalty: Still Here, Still Unfair. More Arbitrary and Costly,” at 18.

⁴ *The Cost of the Death Penalty in Maryland, Abell Foundation* (2008).

phase, the (new) phase where jurors consider whether the new evidentiary requirements have been met, and the sentencing phase.

SB 276 would appropriate the money saved by repealing the death penalty and use it to allocate \$500,000 annually to the Maryland Victims of Crime Fund, devoted to the needs of murder victims' families. Getting rid of something that does not work and using the money saved to helping families and communities is not only better policy, but also simply the right thing to do.

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The death penalty should be repealed because **too often innocent people are sentenced to death**. Maryland has the dubious honor of having the first DNA exoneree freed from MD death row in 1993. He is Kirk Bloodsworth, convicted of a rape and murder he did not commit. He had alibi witnesses but a flawed eyewitness ID overrode the truth. Passage of this bill would guarantee for all the people of Maryland that we will no longer run the risk of executing the wrong man.

The Maryland Commission on Capital Punishment found that despite the advance of forensic sciences, particularly DNA testing, the risk of execution of an innocent person remains a real possibility. The Commission also concluded that while DNA testing has become a widely accepted method for determining guilt or innocence, it does not eliminate the risk of sentencing innocent persons to death since, in many cases, DNA evidence is not available and, even when available, it is subject to contamination or error at the scene of the offense or in the laboratory.

Even with the 2009 requirements, the risk of executing an innocent person remains. Examples of where errors have occurred -- even in the exact situations addressed by the 2009 requirements -- abound.⁵

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Finally, **the death penalty is not an effective deterrent**. The 2008 Commission found that there is no persuasive evidence that the death penalty deters crime. Numerous law enforcement agencies around the country have agreed with that finding for many years -- statistics show that states with the death penalty continue to have the highest rates of violent crime.

In Maryland, where we have had a *de facto* moratorium on executions since 2006, the statewide murder rate has declined. According to the Governor's Office on Crime Control and Prevention, in 2010 it was at its lowest level since 1986.⁶

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We urge you to vote on behalf of the people of this great state to end this failed system and turn to better, more cost-effective public safety practices. Not only would ending the death penalty save money in the criminal justice system overall; this bill also directs that \$500,000 of that saved money be used for a much more worthy cause -- the State Victims of Crime Fund.

For the foregoing reasons, the ACLU of Maryland urges a favorable report on SB 276.

⁵ See "Maryland's Death Penalty: Still Here, Still Unfair. More Arbitrary and Costly" at 2-7.

⁶ <http://hwww.goccp.maryland.gov/msac/crime-statistics.php>