

HOUSE BILL REPORT

SB 5339

As Reported by House Committee On: Public Safety

Title: An act relating to reducing criminal justice expenses by eliminating the death penalty and instead requiring life imprisonment without possibility of release or parole as the sentence for aggravated first degree murder.

Brief Description: Reducing criminal justice expenses by eliminating the death penalty and instead requiring life imprisonment without possibility of release or parole as the sentence for aggravated first degree murder.

Sponsors: Senators Carlyle, Walsh, Pedersen, Wellman, Keiser, Lias, Hunt, Kuderer, Nguyen and Saldaña; by request of Attorney General.

Brief History:

Committee Activity:

Public Safety: 3/25/19, 4/1/19 [DP], 2/24/20, 2/27/20 [DP].

<h4>Brief Summary of Bill</h4>

- Repeals statutes pertaining to the death penalty.

HOUSE COMMITTEE ON PUBLIC SAFETY

Majority Report: Do pass. Signed by 7 members: Representatives Goodman, Chair; Davis, Vice Chair; Appleton, 2nd Vice Chair; Lovick, Orwall, Pellicciotti and Pettigrew.

Minority Report: Do not pass. Signed by 3 members: Representatives Klippert, Ranking Minority Member; Sutherland, Assistant Ranking Minority Member; Graham.

Minority Report: Without recommendation. Signed by 1 member: Representative Griffey.

Staff: Kelly Leonard (786-7147).

Background:

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

In 2018 the Washington Supreme Court issued a decision in *State v. Gregory*, 192 Wn.2d 1, 427 P.3d 621, finding that the current death penalty statute is unconstitutional as a result of being imposed in an arbitrary and racially biased manner. The death sentences for the remaining defendants awaiting execution were converted to life in prison without the possibility of release or parole.

Current statute authorizes a death sentence only against adult defendants convicted of Aggravated First Degree Murder. Aggravated First Degree Murder is premeditated Murder in the first degree when at least one of 14 aggravating circumstances exists. Examples of aggravating circumstances include:

- the victim was a police officer performing official duties, or a judge, juror, witness, or attorney, and the murder was related to the victim's official duties;
- the murder was committed in the course of, in furtherance of, or in immediate flight from certain crimes, such as Robbery, Rape, or Burglary;
- the murder was committed in exchange for money or to conceal the commission of a crime;
- the person committed the murder to obtain or maintain a position in the hierarchy of an organization; or
- there was more than one victim and the murders were part of a common scheme or plan, or the result of a single act.

Prior to 2018, executions were carried out by lethal injection or, at the election of the condemned person, by hanging. Executions occurred at the Washington State Penitentiary in Walla Walla under the supervision of the Superintendent of the Department of Corrections.

As a result of *State v. Gregory*, the only available sentence for an adult defendant convicted of Aggravated First Degree Murder is life in prison without the possibility of release or parole.

Summary of Bill:

The statutory authority and procedures for imposing and carrying out the death penalty are repealed. An adult defendant convicted of Aggravated First Degree Murder must be sentenced to life in prison without the possibility of release or parole.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) In *State v. Gregory*, the Washington Supreme Court unanimously found that the death penalty statutes are unconstitutional as a result of being applied in an arbitrary and racially biased manner. This bill would remove these statutes from the Revised Code of Washington. It is important to clarify that the death penalty is no longer available for these cases.

Even those who support the death penalty in concept should support repealing unconstitutional and unusable statutes. Leaving these laws on the books does not make sense and it has no legal purpose. It confuses the public and creates false expectations. While it may be difficult, it is important to move forward on this issue.

All human life is sacred, from conception to natural death. Many churches and religious institutions oppose capital punishment. These institutions are also deeply concerned for the families and loved ones of victims of violent crimes. Society must commit to helping victims heal and protecting them from harm. However, the death penalty perpetuates a cycle of violence. Taking another life does not balance the scales of justice. Murder is wrong, regardless of whether it is committed by an individual or the state.

People on death row have committed terrible acts, and there is immense compassion for their victims. But the death penalty is not the answer. Washington and other states have repeatedly attempted to construct different death penalty schemes to address constitutional issues. It has become clear that the arbitrariness and racial bias cannot be fixed no matter how a statute is constructed. The death penalty does not deliver on its promise. It is not effective at deterring crime or improving public safety. It is not imposed upon the worst of the worst. Moreover, it has been imposed upon the innocent. Life in prison without the possibility of release or parole is an appropriate sentence for the most serious of offenses.

There have been numerous exonerations of people on death row across the country. Even in Washington, innocent people have served time on death row. Wrongful convictions are often caused by human error and mistakes. Despite reforms, it is impossible to completely perfect the criminal justice system. Wrongful convictions will occur. The death penalty is absolute and cannot be undone. In addition, the financial costs of the death penalty are too high. These resources can be more appropriately spent elsewhere.

Many former and current employees of the Department of Corrections have been directly involved in carrying out executions. The state should consider what it means for state employees to kill other human beings. Employees have done their best to take care of themselves before, during, and after executions. Many have had to wrestle with—or even put aside—personal and religious beliefs in order to continue with their jobs.

The death penalty raises many serious issues in the medical and science fields. A lethal injection is a complex medical procedure, and it is difficult to carry it out properly without causing pain and suffering. Executions are, by definition, unethical medical practice. They violate the Hippocratic Oath and professional ethics. Since executions cannot be ethically carried out by licensed physicians, those who end up carrying them out are unqualified. Further, all other medical procedures undergo scientific scrutiny, testing, and refinement. As a result of ethical concerns, however, lethal injections have not and will not undergo this process. This means every execution is a human experiment.

Many crime victims and their families do not support the death penalty. Even after losing a loved one, many families do not want to perpetuate violence. In addition, some families have also felt that resources and attention were diverted away from their cases to capital cases. They were left to feel that their loved one was less important. Families on both sides of this issue should be supported. Victims and their families have a wide range of feelings and experiences, and all of them are valid.

Opponents of this legislation have raised concerns based on unrelated proposals related to sentencing. The Legislature needs to evaluate this issue on its own. Many persons supporting this bill also support maintaining the sentence of life without the possibility of parole. It takes a lot of courage to come and testify at the Legislature. But, if testifiers are bullied, it discourages people from participating in the process.

(Opposed) The death penalty is an important tool in the criminal justice system. Gary Ridgway, also known as the Green River Killer, murdered at least 49 women in Washington. However, he was initially only charged with seven murders. The death penalty was a bargaining tool that compelled him to confess to the other murders in exchange for a life sentence. Without the death penalty, these families would have never learned the fate of their daughters and sisters. They would still be wondering what happened to them. The death penalty created a pathway to the truth. Without the death penalty, what will the state do with the next Gary Ridgway? The death penalty has saved lives, and it could be reformed and reinstated in order to save more lives.

There are issues with sentencing violent acts committed by persons who are already serving life sentences. Jayme Biendl, a state employee, was raped and murdered by a state prisoner. Without the death penalty, it is unclear what the real consequences would be for those types of cases.

The Legislature is chiseling away at the criminal justice system. If the death penalty is eliminated, then some advocates will go after life without the possibility of parole. There have been multiple proposals to do this in recent years. If those bills pass, then Gary Ridgway and other murderers could immediately apply for parole. Victims' families fear that these people will be released back into the community. The state is violating its promise to those victims. These legislative proposals revictimize and retraumatize families.

The Legislature should not treat murderers as if they are the victims. Even in the case of Gary Ridgway, the state attempted to transfer him to a different facility for his own mental health. There was no concern for the mental health of the families of his victims. There are more and more legislative proposals and advocates attempting to excuse people for their crimes. Some people do not want there to be any punishment or to require criminals to take responsibility for what they have done. This bill is a reflection of this trend. This bill should not be enacted, as it will send the wrong message to criminals. It sends the message that there are no real consequences.

The criminal justice system relegates crime victims and survivors to being witnesses in these cases. These victims do not have anyone lobbying for them, yet their murderers do have lobbyists. Criminal defendants are getting services and education paid for by the taxpayers.

The Legislature is going out of its way for them, but the victims get nothing. They are expected to pick themselves up by their bootstraps. It is time for balance to be restored to the criminal justice system.

Persons Testifying: (In support) Noah Purcell, Office of the Attorney General; Adam Cornell, Snohomish County Prosecutor's Office; Teresa Mathis; Daniel Mueggenborg, Archdiocese of Seattle; Leslie Cushman, Justice and Witness Ministry, Pacific Northwest Conference United Church of Christ; Glen Anderson, Committee for Alternatives to the Death Penalty; Dawud Al-Malik; Lara Zarowsky, Washington Innocence Project; Dick Morgan; Marc Stern; and Noreen Light.

(Opposed) Carol Estes; Lew Cox, Violent Crime Victim Services; Dennis Meehan; Howard Briggs; James McMahan, Washington Association of Sheriffs and Police Chiefs; Hannah Marcle; and Representative Graham.

Persons Signed In To Testify But Not Testifying: None.