

Support HB 350 (Rep. Hopkins)

Replace Capital Punishment with Permanent Imprisonment

Bill: HB 350 would repeal capital punishment and replace it with a sentence of life in prison without the possibility of parole.

Issue: **Capital punishment does not make Montanans safer.** There is no evidence to show that the death penalty is a deterrent to murder - in our communities or in our prisons and jails. In fact, murder rates are substantially lower in non-death penalty states. Between 2010 and 2016 the murder rate was 23% lower in non-death penalty states compared to death penalty states.¹ In addition, a national poll of police chiefs found that the death penalty ranked as the least effective tool for reducing violent crime.² Finally, despite leading the nation in the number of new death sentences (per capita), Alabama also leads in the nation in prison homicides (per capita).³ *Replacing the death penalty with life without parole will not harm the safety of Montanans - on the street or working in our prisons and jails.*

Capital punishment wastes money and misuses law enforcement resources. Cost studies consistently find that the death penalty system costs taxpayers at least 2 to 3 times more than a system of life without parole, with the majority of that cost being incurred at the initial trial level, whether or not the defendant is sentenced to death. As the most recent study, conducted for the Oklahoma Death Penalty Review Commission, found, "[i]t is a simple fact that seeking the death penalty is more expensive. There is not one credible study, to our knowledge, that presents evidence to the contrary."⁴ *To make our communities safer, Montana should invest the resources saved by ending capital punishment into data-driven public safety solutions, like expanding substance abuse and mental health treatment programs.*

Capital punishment is irreversible. Our criminal justice system makes mistakes, yet the imposition of a death sentence on a wrongfully convicted individual cannot be fixed. Since 1973, 164 people who were sentenced to death have been exonerated.⁵ When talking about the power of the state to kill, one error is unacceptable - 164 errors should shock the conscience of all. And, Montana's criminal justice system is not immune from error. While Montana has not had a death row exoneration, 14 people have been exonerated in Montana, including four who

¹ Death Penalty Information Center, Deterrence: States Without the Death Penalty Have Had Consistently Lower Murder Rates, *available at* <https://deathpenaltyinfo.org/deterrence-states-without-death-penalty-have-had-consistently-lower-murder-rates#stateswithvwithout> (last visited on Jan. 8, 2019).

² Richard C. Dieter, Death Penalty Information Center, On the Front Line: Law Enforcement Views on the Death Penalty, Feb. 1995, *available at* <https://deathpenaltyinfo.org/front-line-law-enforcement-views-death-penalty> (last visited on Jan. 8, 2019).

³ Report: Alabama prison homicide rate highest in nation, Associated Press, Dec. 10, 2018, *available at* <https://www.foxnews.com/us/report-alabama-prison-homicide-rate-highest-in-nation>.

⁴ The Report of the Oklahoma Death Penalty Review Commission, The Constitution Project, Mar. 2017, p. 226-227, *available at*

<https://bloximages.newyork1.vip.townnews.com/tulsaworld.com/content/tncms/assets/v3/editorial/6/b5/6b5c1d58-edf1-5123-a6b4-9b4a4682a6cd/58ffb73677776.pdf.pdf>.

⁵ Death Penalty Information Center, Innocence and the Death Penalty, *available at* <https://deathpenaltyinfo.org/innocence-and-death-penalty>.

were wrongly convicted of murder.⁶ *By moving from capital punishment to life without the possibility of parole, wrongly convicted individuals will not be put to death and be forever deprived of the opportunity to benefit from new evidence of innocence.*

Capital punishment is applied arbitrarily. Contrary to popular belief, capital punishment is not reserved for the “worst of the worst.” In reality, the likelihood of receiving a death sentence is not primarily based on the facts in your case, but rather on the amount of money you have, the quality of your attorney, the race of the victim, and the location of the offense. When the outcome of a capital case is driven by these factors, equal justice under law, the cornerstone of our legal system, becomes a meaningless phrase. *Arbitrary is one word that should never be associated with the death penalty, yet the reality of capital punishment is just that.*

Solution: Capital punishment has no public safety benefit, wastes taxpayer funds, is applied in an unjust and arbitrary manner, and leaves open the risk of the state executing an innocent person. It’s time for Montana to replace capital punishment with a sentence of life in prison without the possibility of parole.

⁶ See The National Registry of Exonerations, Science & Society at University of California Irvine, the University of Michigan Law School, and Michigan State University College of Law, available at <http://www.law.umich.edu/special/exoneration/Pages/detailist.aspx?View={FAF6EDDB-5A68-4F8F-8A52-2C61F5BF9EA7}&FilterField1=ST&FilterValue1=MT>.