



Legislative Council Staff

Research Note

Version: Final

Date: 2/23/2017

Bill Number

Senate Bill 17-095

Sponsors

Senator Guzman
Representative Garnett

Short Title

Repeal The Death Penalty

Research Analyst

Conrad Imel (x2756)

Status

This research note reflects the introduced version of the bill, which was postponed indefinitely by the Senate Judiciary Committee on February 15, 2017.

Background

In 1972, the U.S. Supreme Court ruled in *Furman v. Georgia*, 408 U.S. 238 (1972), that arbitrary and inconsistent application of the death penalty violated the Eighth and Fourteenth Amendments to the U.S. Constitution and constituted cruel and unusual punishment. The decision effectively created a national moratorium on the imposition of the death penalty until states could develop laws for its consistent and nondiscriminatory application. In the following years, states enacted new death penalty laws in an effort to comply with the Court's ruling. Many states, including Colorado, passed laws requiring a two-step trial process with separate guilt-innocence and sentencing phases. Currently, 19 states have prohibited the use of the death penalty; it is legal in the remaining 31 states.

Colorado law. Under Colorado law, after a defendant is convicted of a class 1 felony, the sentencing phase of the trial is conducted before the trial jury to determine whether the defendant should be sentenced to death or life imprisonment. If the jury is unable to reach a unanimous verdict to sentence the defendant to death or life imprisonment, the court is required to enter a verdict of life imprisonment. Since reinstatement of the death penalty following the Court's ruling in *Furman*, one person has been executed in Colorado. There are currently three people in the Department of Corrections' custody who are sentenced to death.

Other states' 2016 ballot measures. During the 2016 election, voters in three states considered ballot measures relating to the death penalty. In California, voters rejected Proposition 62, which would have abolished the death penalty. In the same election, voters approved Proposition 66, which sought to shorten the time spent on legal challenges to death sentences.

This research note was prepared by Legislative Council Staff, the nonpartisan research staff for the Colorado General Assembly. The research note is provided for informational purposes only and should not be relied upon as an official record of action by the General Assembly. Legislative Council Staff are not attorneys, and the research note is not a legal opinion. If you have legal questions about the bill, including questions about the meaning of the bill language or amendments, please contact the drafter.

Voters in Nebraska voted to overturn the state legislature's repeal of the death penalty. In Oklahoma, State Question 776 passed, adding to the state constitution the declaration that the death penalty is not cruel and unusual punishment.

Senate Action

Senate Judiciary Committee (February 15, 2017). At the hearing, the committee heard testimony in favor of the bill from representatives of the the Colorado Council of Churches, Lutheran Advocacy Ministry Colorado, the ACLU of Colorado, the Office of Alternate Defense Counsel, Better Priorities Initiative, the Twentieth Judicial District Attorney's Office, and the League of Women Voters, and private citizens. The committee heard testimony in opposition to the bill from representatives of the Fourth Judicial District Attorney's Office and the Eighteenth Judicial District Attorney's Office, and private citizens. The bill was postponed indefinitely by the committee.

Relevant Research

Legislative Council Staff, *Special Sentencing for Felony and Misdemeanor Offenses*, Interested Persons Memorandum, October 2012: <http://tinyurl.com/j8wsm44> (pdf).

Legislative Council Staff, 2010 Sentencing Reform, Issue Brief, December 2010, updated March 2012: <http://tinyurl.com/zoe472m> (pdf).