Nebraska News Service

LINCOLN—Nebraska would become the 18th state in the United States to abolish the death penalty under a bill introduced by Sen. Ernie Chambers of Omaha.

The Legislature's Judiciary Committee heard testimony March 13 on LB 543. The bill would get rid of the death penalty in the state and replace it with life imprisonment without the possibility of parole.

Nebraska has executed three people since 1976 when the U.S. Supreme Court allowed the resumption of executions after a two-year moratorium. There are currently 11 inmates on death row in the state.

In his remarks before the committee, Chambers called the death penalty a "negative influence on public morality" and cited Pope John Paul II's call for the abolition of state-sponsored executions.

"The experience of this state with the death penalty has been fraught with errors, frustration and delay due to the constitutional mistakes in the statute," Chambers said.

Several people representing a diverse array of religious institutions, civil liberties and inmate advocacy groups and attorneys organizations testified in favor of the bill.

Jim Cunningham of the Nebraska Catholic Bishops Conference said that other means of punishment for criminals and protection for citizens are available and that the death penalty is not absolutely necessary.

"We need to reject a culture of death and embrace a culture of life," he said.

Bill Thornton, a pastor and teacher at the Nebraska Christian College in Papillion, said even though evangelical Christians have historically supported the death penalty, that support is beginning to erode.

“People are becoming increasingly aware of massive injustices in the death penalty system,” he said.

Among those injustices are wrongfully accused people being sentenced to death.

The Innocence Project, a nonprofit legal organization, has used DNA evidence to exonerate more than 300 people in the U.S., 18 of whom were on death row.

Overall, 142 people have been exonerated from death row through DNA and other means, according to Innocence Project attorney Amy Miller.

Curtis McCarty was one of the 142. He was falsely charged with capital murder in Oklahoma in 1985 and spent 22 years on death row before having his conviction overturned.

“We are told that members of law enforcement are perfect, that they are infallible, that they never make mistakes, and I think that’s probably the most tragic part of the entire process,” McCarty said in his testimony to the committee.

Miller cited false eyewitness identification, improper forensics and false confessions as the main causes of wrongful conviction.

Richard Dieter, an attorney for the Death Penalty Information Center, a Washington, D.C.-based nonprofit that studies the death penalty, testified as neutral on the bill.

Dieter said the death penalty as a punishment is more expensive than the alternative of life imprisonment without parole because more preparation goes into a death penalty trial and it costs more to house a death row inmate.

He cited one study from Maryland that tracked a death penalty case from the beginning phases of the trial until the inmate's execution and a life imprisonment case over the same period. The study found that the death row inmate cost the state $3 million, whereas the non-death row inmate cost the state $1.5 million over the same period.

Don Kleine, a prosecutor from Douglas County, testified against the bill on behalf of the Nebraska County Attorneys Association.

"On certain unique cases we need to have this ultimate punishment," he said.

Kleine said that abolishing the death penalty would only shift the lengthy, expensive appeals process onto life imprisonment without parole cases and the state would not save any money.

Klein responded to concerns from committee members that the death penalty is not applied uniformly by saying that he bases his decision to pursue the death penalty on the evidence alone.

"We consider the evidence," he said.

Joe Kelly of the Lancaster County Attorney's Office also testified against the bill.

In 1979 the Nebraska Legislature became the first in the country to pass a bill abolishing the death penalty but it was vetoed by then-Gov. Charles Thone.

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