



JOHN A. KITZHABER, MD  
Governor

February 25, 2013

The Honorable Jeff Barker, Chair  
House Committee on Judiciary  
H-480 State Capitol  
900 Court Street NE  
Salem, OR 97301

Dear Representative Barker,

I thank the sponsors of House Joint Resolution 1 for raising this important issue and offering Oregonians the opportunity to participate in a long overdue reevaluation of our system of capital punishment. I am convinced we can find a better solution that keeps society safe, supports the victims of crime and their families and reflects Oregon values. I commend the committee for holding this hearing and urge your support for the resolution.

Oregon has a long and turbulent history with capital punishment. Our state constitution originally had no provision for the death penalty. Enacted by statute in 1864, the death penalty was repealed by voters in 1914, restored in 1920, outlawed again by voters in 1964, re-enacted in 1978, deemed unconstitutional by the Oregon Supreme Court in 1981 and again reinstated by voters in 1984.

I respect the will of the voters and, in fact, have carried out that will on two occasions. However, I have regretted those choices ever since – both because of my own deep personal convictions about capital punishment and also because, in practice, Oregon has an expensive and unworkable system that fails to meet basic standards of justice. I do not believe that those executions made us safer; and certainly they did not make us nobler as a society.

Let me be clear, I have no sympathy or compassion for the criminals or for anyone who commits the most heinous of acts – taking the life of another person. The families and friends of victims deserve certainty that justice will be carried out on behalf of the loved ones who have been taken from them in such a cruel fashion.

Oregonians have a fundamental belief in fairness and justice – in swift and certain justice. But Oregon's death penalty is neither fair nor just; neither swift nor certain. And it is not applied equally to all. In Oregon, the single best indicator of who will and will not be executed has nothing to do with the circumstances of a crime or the findings of a jury. The only factor that determines whether someone sentenced to death in Oregon is actually executed is that they volunteer. The hard truth is that in the 27 years since Oregonians reinstated the death penalty, it has only been carried out on two volunteers who waived their rights to appeal.

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In the years since those executions, many judges, district attorneys, legislators, death penalty proponents and opponents, and victims and their families have agreed that Oregon's system is broken.

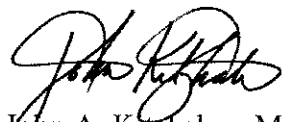
And during that time, a growing number of states have reconsidered their approach to capital punishment given public concern, evidence of wrongful convictions, the unequal application of the law and the expense of the process. Illinois banned it in 2011, ending a legacy of faulty convictions, forced confessions, unreliable witnesses and incompetent legal representation. New Jersey abolished capital punishment after determining it had spent a quarter of a billion dollars on a system that executed no one. New Mexico recognized that the death penalty is neither an effective deterrent nor fair to victims' families burdened with lengthy trials and appeals and replaced it with a sentence of life without the possibility of parole.

In Oregon, we have 37 inmates on death row today. Some have been there for over 20 years. They all have many available appeals left before there is even a remote possibility of carrying out their death sentence unless they volunteer. Two others have died of natural causes after more than a decade on death row. The reality is that Oregon's death row is an extremely expensive life prison term, likely several times more expensive than the life terms of others who happen to have been sentenced to life in prison without the possibility of parole – rather than the death penalty.

And while it may be convenient to blame lengthy and expensive death penalty trials and appeals on inmates "working the system," the truth is courts (and society) continue to reinterpret when, how and under what circumstances it is acceptable for the state to kill someone. Over time, those options are narrowing. Courts are applying stricter standards and continually raising the bar for prosecuting death penalty cases. For a state intent on maintaining a death penalty, the inevitable result will be bigger questions, fewer options and higher costs.

It is time for Oregon to consider a different approach. I urge your support for HJR 1.

Sincerely,



John A. Kitzhaber, M.D.  
Governor