



**Kansas Association of
Chiefs of Police**

PO Box 780603
Wichita, KS 67278
(316)733-7301



**Kansas Sheriffs
Association**

PO Box 1122
Pittsburg, KS 66762
(620)230-0864



**Kansas Peace Officers
Association**

PO Box 2592
Wichita, KS 67201
(316)722-8433

**Testimony to the House Corrections and Juvenile Justice Committee
In Opposition to HB2282
February 19, 2019**

Chairman Jennings and Committee Members,

It is not hard to see the issue of whether government should still use the death penalty is controversial with many passionate arguments both for and against it. In the collective opinions of our associations, this is an issue that the rule of never say never is appropriate.

We are opposed to discontinuing the death penalty. Justice is expensive regardless of how you look at it. Homicide crimes are expensive with or without the death penalty. They are costly to investigate, they are costly to prosecute, appeals are expensive, and lengthy incarceration is expensive. This is true not only in death penalty cases but in all cases of serious violent felonies. We can think of no other obligation of government than to protect the public from the atrocity of these heinous criminals. Although we understand the death penalty creates appeal avenues not available in other cases, it is difficult for us to comprehend why a person sentenced to life in prison with no possibility for parole will have any less desire to pursue all of their appeal possibilities than a person sentenced to death will.

We do not believe the argument that Kansas has not executed anyone in an extremely long time is a valid reason for not having the death penalty. If anything, that speaks to how carefully the death penalty is imposed in Kansas and to the ability of each case to receive thorough judicial review before carrying out the sentence. The typical time between conviction and execution in the US appears to be about 16 years. Since the death penalty was restored in Kansas in 1994 the fact that we haven't had a death penalty carried out in Kansas doesn't seem indicative of a problem or reason for change.

The argument "why kill people who kill people, to show killing is wrong" also seems an oversimplification of the issue. If we use that standard perhaps we shouldn't imprison kidnappers who imprison people against their will, to show imprisoning people who don't want to be is wrong.

As law enforcement officers we too frequently see the atrocious acts of violence leading to death penalty cases. We certainly have "poster" offenders offering strong justification of the death penalty. For example, Hickock and Smith, the Carr brothers and BTK. Interestingly, BTK isn't eligible for the death penalty but the style of serial killing over many years is certainly an example of a case where the death penalty should be an option.

Clearly the death penalty should be used sparingly. The number of death penalty sentencings in Kansas since 1994 seem to say that is the case in Kansas. The use of juries to determine death penalty application seems to be working and appropriate. It is a decision by the constitutional authority on deciding cases in court—a panel of the offender's peers.

It seems to us a discussion on ending the death penalty should be less about an up or down, yes or no vote on the death penalty in general and more about a discussion and review of the elements that permit a death

penalty sentence. While we feel the list of the seven conditions of homicide listed in KSA 21-5401 that may lead to a death sentence is appropriate, a good review of those criteria for the application of the death penalty seems more prudent than just deciding an absolute yes we should have the death penalty or no we should not. Only if the policy decision is that none of those seven conditions no longer justify the death penalty should the sentence option be abolished.

Take subsection (a)(3) as an example: “intentional and premeditated killing of any person by an inmate or prisoner confined in a state correctional institution, community correctional institution or jail or while in the custody of an officer or employee of a state correctional institution, community correctional institution or jail.” If a person is in prison for life what is the punishment for committing an “intentional and premeditated” murder while in prison? What do they have to lose if they are already in prison for life? What is the incentive to not commit a murder? This seems to offer some level of protection for not only other prisoners but for prison staff as well.

Also consider if the murderer is committing another crime that could lead to life in prison. Without a penalty worse than life in prison which they are already facing, what is the incentive to not kill the victim or witnesses who may be able to identify them and lead the investigation to their conviction? This is particularly true in cases of kidnapping as well as other crimes committed by serious violent repeat offenders facing life in prison if caught and convicted.

To be clear and transparent, there are some law enforcement officers and officials who do not support the death penalty. However, our position is based in the clear and overwhelming majority of our members who are opposed to abolishing the death penalty.

As this committee debates whether to replace the death penalty with a life sentence without possibility of parole, this committee and others are debating how to reduce the prison population by deciding what offenders deserve to be turned loose on society, knowing with certainty that some percentage of them will offend again. This highlights the fact that no action this legislature takes is final. Fifteen years from now will the debate be whether we should remove the life without parole provision, and give them another chance? Will the debate be to allow the Governor to pardon violent offenders like we have seen happen in other states? Do you remember that Gov. Docking commuted two death sentences? No one in this body can guarantee these offenders will truly finish a life sentence without parole.

If we were to have our way, the solution ending the death penalty would be improving early intervention programs, mental health systems, and other efforts that would result in no more killings in Kansas that would justify a death penalty. However, we know that such a solution isn't likely in the foreseeable future. There will always be those in society that are vicious persons without conscience who are willing to take another person's life in a manner that is so shocking it justifies a penalty more harsh than life in prison and the certainty of protecting the public from their further crimes that a death penalty provides.

We urge you to retain the death penalty as a sentencing option in the crimes meeting the criteria of KSA 21-5401.

Ed Klumpp
Legislative Liaison
E-mail: eklumpp@cox.net