Supporters of capital punishment say it's still needed

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Sensing a real chance to abolish the death penalty in Maryland after years of trying, opponents of capital punishment brought a parade of religious, political and civil rights leaders to Annapolis Thursday to urge lawmakers to do away with the ultimate sanction.

Roman Catholic Archbishop William E. Lori, testifying before a legislative committee for the first time since taking the helm of the Archdiocese of Baltimore last year, said he had come to Annapolis to throw the church's support behind the repeal effort.

"While those who have done terrible harm to others deserve punishment," he said, the church opposes the death penalty because it considers even the lives of criminals sacred — and because of "what it does to all of us as a society."

Gov. Martin O'Malley, who has made repeal a priority this year, and Benjamin T. Jealous, president of the NAACP, weighed in with more practical arguments: that capital punishment does not deter crime, that it is racially biased, and that new DNA analysis has exonerated a disturbing number of death-row inmates.

O'Malley also contended that it costs taxpayers more to impose a death sentence than to incarcerate a convict for life without the possibility of parole.

"The death penalty is expensive, and the overwhelming evidence tells us that it does not work," O'Malley, a Democrat, told members of the Senate Judicial Proceedings Committee.

Though outnumbered at the witness table, prosecutors, police officials and some relatives of murder victims pushed back. They argued that the death penalty should be preserved for the "worst of the worst" killers, that the public wants to keep it, and that DNA technology and new legal safeguards adopted in Maryland in 2009 have greatly reduced the chances that any innocent person would be wrongly convicted, much less executed.

"Don't you think it is true there are individuals that commit such heinous acts that they don't deserve to live in any society, even and especially in a correctional institution?" asked Scott D. Shellenberger, the Baltimore County state's attorney. He said the death penalty is not about vengeance for the murdered, but about justice.

And Rick Prothero, whose brother, Baltimore County police Sgt. Bruce Prothero, was murdered

in a Pikesville jewelry store robbery in 2000, made an emotional appeal to senators to keep capital punishment.

"It is only to be used on those who have so violently violated humanity that they have no place in this world," Prothero said.

Lawmakers in the Senate panel, which has bottled up repeal bills in years past, grilled witnesses on both sides, and one or two senators indicated they are grappling with how to vote this time.

Opponents of the death penalty say a majority of lawmakers in both the House and Senate have indicated they support repeal this year. Senate President Thomas V. Mike Miller Jr. has promised to bring a repeal bill before the full Senate if the votes are there, even though he personally favors keeping the death penalty.

Thirty-three states still have capital punishment. If Maryland abolishes it, it would be the sixth state to do so in recent years. Connecticut ended it last year.

The last execution in Maryland was in 2005. The death penalty was been on hold since 2006, when the Court of Appeals found fault with state regulations for administering it. The state still has five inmates on death row, three of them for crimes committed in 1983.

The repeal bill, if it passes, would affect only future cases. Asked if he would commute the existing death sentences, O'Malley responded that he would review each case and decide it "according to the law."

Senators quizzed O'Malley and the others on whether removing capital punishment from the books might tie prosecutors' hands in getting accused murderers to plead guilty in exchange for life in prison without parole. Sen. James Brochin, a Baltimore County Democrat, noted that Maryland Attorney General Douglas F. Gansler and the state's attorneys of Baltimore and Prince George's counties oppose its repeal for that reason.

"I respectfully disagree with the attorney general on this issue," O'Malley said.

Surveys indicate that Maryland voters are divided over the death penalty. A recent Baltimore Sun poll found that 48 percent supported capital punishment and 42 percent opposed it.

Some surveys have found that many voters would favor repealing the death penalty if it were replaced by a sentence of life in prison without parole.

Death penalty supporters insisted that even though it is rarely imposed, it still poses a deterrent.

Harford County State's Attorney Joseph I. Cassilly warned that elimination of capital punishment could actually cause more deaths. Without the death penalty, he said, a violent rapist who is eligible for life imprisonment would have little to lose from murdering the victim.

"It's to his benefit to commit a murder to escape punishment," Cassilly said.

But in a counterpoint to such arguments, O'Malley said the average homicide rate in states with the death penalty is higher than in those states without it. He noted that violent crime rates in Maryland have fallen to a 30-year low even as executions have been put on hold.

The NAACP's Jealous and others also argued that studies have shown the death penalty has been irretrievably tainted by racial bias. They noted that far more African-Americans are sentenced to die than are white defendants.

Family members of murder victims spoke on both sides of the issue. The daughter of Lawrence M. Foley Sr., an American diplomat killed in Jordan in 2002 by gunmen connected to al-Qaida, said their execution actually made her feel worse.

"To me, to kill his killers is more violence — a deeper descent into horror," said the Rev. Megan L. Foley of the Sugarloaf Congregation of Unitarian Universalists in Germantown.

Both sides sparred over claims that eliminating the death penalty would save taxpayers money. The state public defender's office spends an average of $1.9 million trying a capital case, according to the Department of Legislative Services, but only about $650,000 on trials in which the death penalty is not in play.

Shellenberger argued that defendants serving life without parole can tie up the courts with appeals just as much as death-row inmates.

But the cost-saving argument could affect whether Maryland voters get the final say on the issue.

The legislation under consideration would allocate $500,000 in expected savings to help murder victims' families. The attorney general's office has said it's unclear whether that provision would make the legislation an appropriations bill. If so, it would not be subject to referendum.

Miller, who has said he expects repeal to go to referendum if it passes, said Thursday the bill should be amended to make it clear that it is not an appropriations bill.

"It's a subterfuge to avoid petitioning it to referendum," Miller said.

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