



The Right Way

More Republican lawmakers
championing death penalty repeal

Conservatives Concerned | About the Death Penalty

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death penalty repeal**

A Report from Conservatives Concerned
About the Death Penalty

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INSIDE

Executive Summary	3
Introduction	4
Methodology	5
Findings	6
Lawmaker Profiles	10
Other Shifts: Grassroots, Party, Faith	15
Conclusion	19
References	20

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Executive Summary

More Republican lawmakers are recognizing that the death penalty is a broken policy and taking an active role in efforts to end it. This report documents that shift by analyzing sponsorship of death penalty repeal bills in state legislatures between 2000 and 2017.

During the first part of this time period, from 2000 to 2012, Republican sponsorship of legislation to end the death penalty was relatively rare, with the number of Republican sponsors per year never exceeding single digits. But that has changed during the past five years, when there has been a significant increase in the number of Republican sponsors of repeal legislation.

In 2016 and 2017, dozens of Republican lawmakers sponsored death penalty repeal bills. In fact, during these two years, Republicans constituted around a third of all sponsors of death penalty repeal bills in state legislatures. As these data show, death penalty repeal efforts are becoming more bipartisan in many states.

These developments come as a number of conservatives have coalesced under the banner of Conservatives Concerned About The Death Penalty (CCATDP) to raise concerns about the death penalty in the media and other forums. Plagued by wrongful convictions, high costs, and delays, the death penalty has proven to be ineffective and incompatible with a number of core conservative principles. It runs afoul of conservative commitments to limited government, fiscal responsibility, and a culture of life.

Such concerns are increasingly impacting policy debates in state legislatures, among grassroots conservatives, and between conservative faith and party leaders. For many of us, our conservative principles inevitably lead to the conclusion that the death penalty is a failed government program that must end.



Introduction

CCATDP's launch in 2013 put conservative death penalty opposition on the national radar.

Conservatives Concerned About The Death Penalty launched in March 2013 at the Conservative Political Action Conference (CPAC).

At that time, death penalty use was rapidly declining. The number of executions was down to less than half of its peak in 1999.¹ Annual death sentences were down to just over one quarter of their record high in 1996,² and public support was down 20 points from its highest point in 1994.³ (These dramatic declines have continued in the years since.)

These declines were seen in red states and blue states alike.

Some of the biggest death sentencing drops occurred in reliably red states like Texas, Oklahoma, Alabama, and Louisiana.⁴ Many point to the action of a Republican governor in January 2000 as the death penalty's turning point when Illinois' then-Governor, Republican George Ryan, imposed the nation's first state-based moratorium on executions. This set off a wave of increased scrutiny and institutional opposition to the death penalty.⁵ That same year, New Hampshire's Republican-controlled legislature voted to repeal the death penalty, only to have its Democratic governor veto it.

Despite this history of efforts from Republicans, death penalty repeal was still largely seen as a liberal concern.

CCATDP's launch in 2013 put conservative death penalty opposition on the national radar. For many conservatives, our launch was their first exposure to the conservative case against the death penalty. For many others, it was the first time they realized they weren't alone.



Since then, dozens of national, state, and local conservative leaders have lent their support to CCATDP. Eleven local CCATDP branches have formed in states across the country. More than 1,400 media stories have included our conservative take on the death penalty. Among those, we have appeared on conservative talk radio stations in every state in the country. And Republican lawmakers have taken on death penalty repeal in statehouses from Virginia to Washington, Louisiana to Utah.

This report documents this last point - the dramatic rise in Republican sponsorship of bills to end the death penalty. It includes profiles of several Republican lawmakers who are leading the way, and it highlights some of the other trends that helped contribute to this rise.

Republican lawmakers have taken on death penalty repeal in statehouses from Virginia to Washington, Utah to Louisiana.

Methodology

Our research sought to find the number of Republican state lawmakers who sponsored death penalty repeal legislation from 2000 through 2017.

We first assembled a list of such legislation introduced during those years, relying primarily on the Lexis-Nexis State Capital database. We searched bills whose titles and/or summaries contained the terms “death penalty” or “capital punishment” and were introduced between 2000 and 2017.⁶ We then read through the bill summaries to narrow the list to those that would have ended the death penalty by statute or by constitutional amendment. (Bills that would place a moratorium on the death penalty, but not repeal it, were not included.)

We cross-referenced our results against the Death Penalty Information Center’s collection of death penalty legislation, which covers the years 2011 to 2017, to compile the final list of death penalty repeal bills.

Though it is impossible to guarantee that every such bill introduced between 2000 and 2017 is included, this list represents the most comprehensive record available, to our knowledge.

Finally, for each bill, we used that state legislature’s website to identify all of the sponsors and their party affiliation.⁷ This additional information made it possible to track the variation in the number and percentage of death penalty repeal sponsors in state legislatures who were Republicans.



Findings

The final search and identification process resulted in a total of 321 death penalty repeal bills introduced in 35 state legislatures between 2000 and 2017. Of those, 83 bills in 24 states had at least one Republican sponsor.

1. The number of Republican death penalty repeal sponsors increased sharply from 2000-2017

In 2016, ten times as many Republicans sponsored repeal bills than in 2000

From 2000 to 2012, the number of Republican state lawmakers sponsoring death penalty repeal bills never rose above single digits in any year. In 2013, the number of Republican sponsors more than doubled from prior years to 20. The numbers have stayed in the double digits ever since. In 2016, the number of Republican repeal sponsors surged to 40 - ten times as many as in 2000. See Figure A.

Some state legislatures meet for two-year sessions or only during odd years. Thus, it is also helpful to analyze the numbers in biennium. In the 2001/2002 legislative sessions, six Republicans in five states sponsored bills to end the death penalty. By the 2015/2016 biennium, more than 11 times as many Republicans were sponsoring death penalty repeal bills - 69 Republicans in 11 states.⁸

2. The percentage of Republican death penalty repeal sponsors increased sharply from 2000-2017.

By 2017, the percentage of sponsors who were Republican was more than six times the same figure in 2007, with over 31% of all death penalty repeal sponsors being Republican.

The percent of legislative sponsors that are Republican increased alongside the number of sponsors. By 2017, the percentage of sponsors who were Republican was more than six times the same figure in 2007, with over 31% of all death penalty repeal sponsors being Republican. See Figure B.

Interestingly, the data show one outlier year, 2000. This was the only year prior to 2014 where the percentage of Republican sponsors was over 10%. That year also had the fewest total death penalty repeal bill sponsors of any year (21), by a significant amount. The next lowest year was almost double the total number of sponsors (39). Every other year had more than 70. This means that the extremely small sponsor number in that year skewed the Republican percentage. Just two fewer Republican sponsors would have cut the percentage in half. See Figure C on page 6.

FIGURE A: TOTAL REPUBLICAN REPEAL SPONSORS PER YEAR, 2000-2017

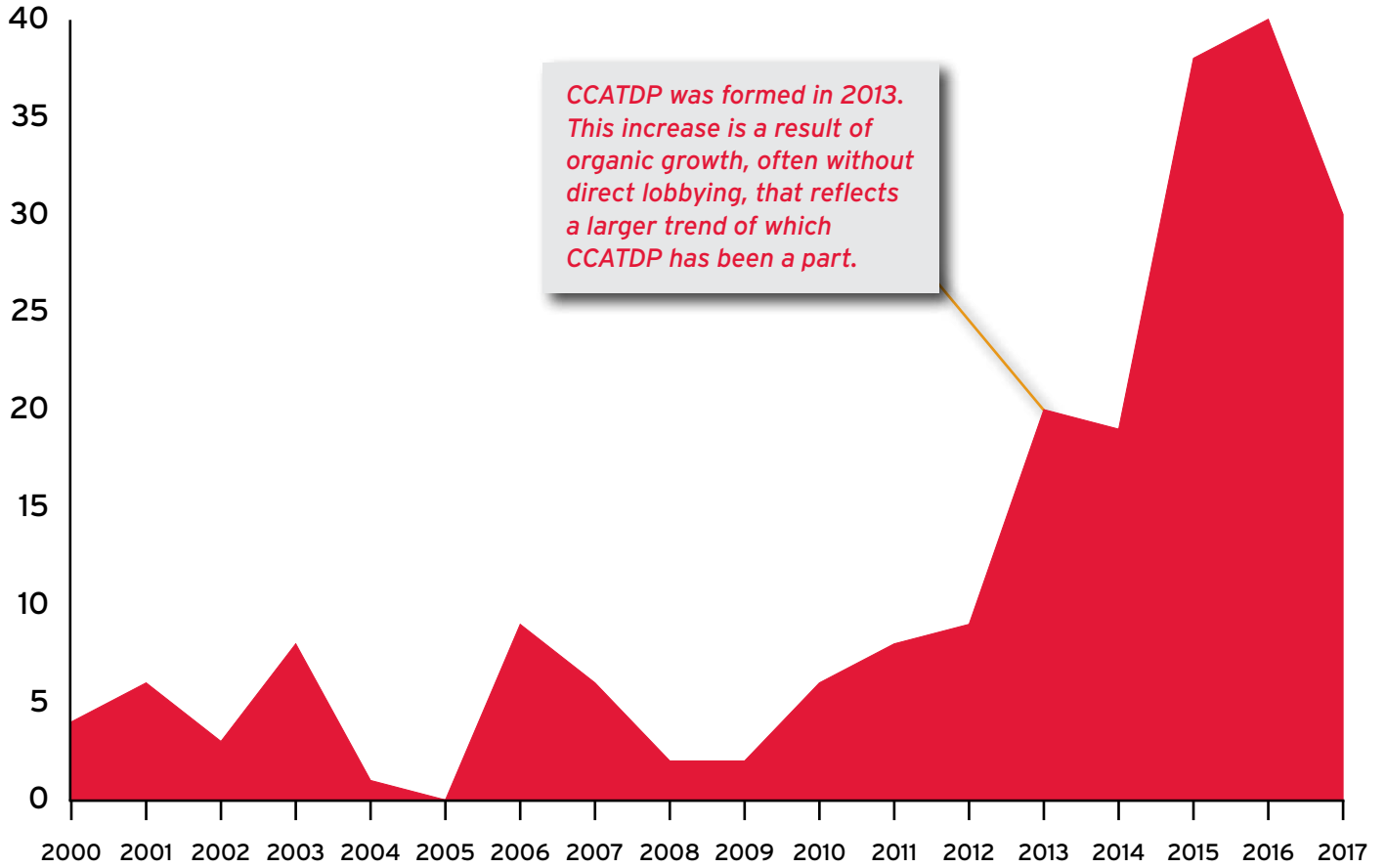
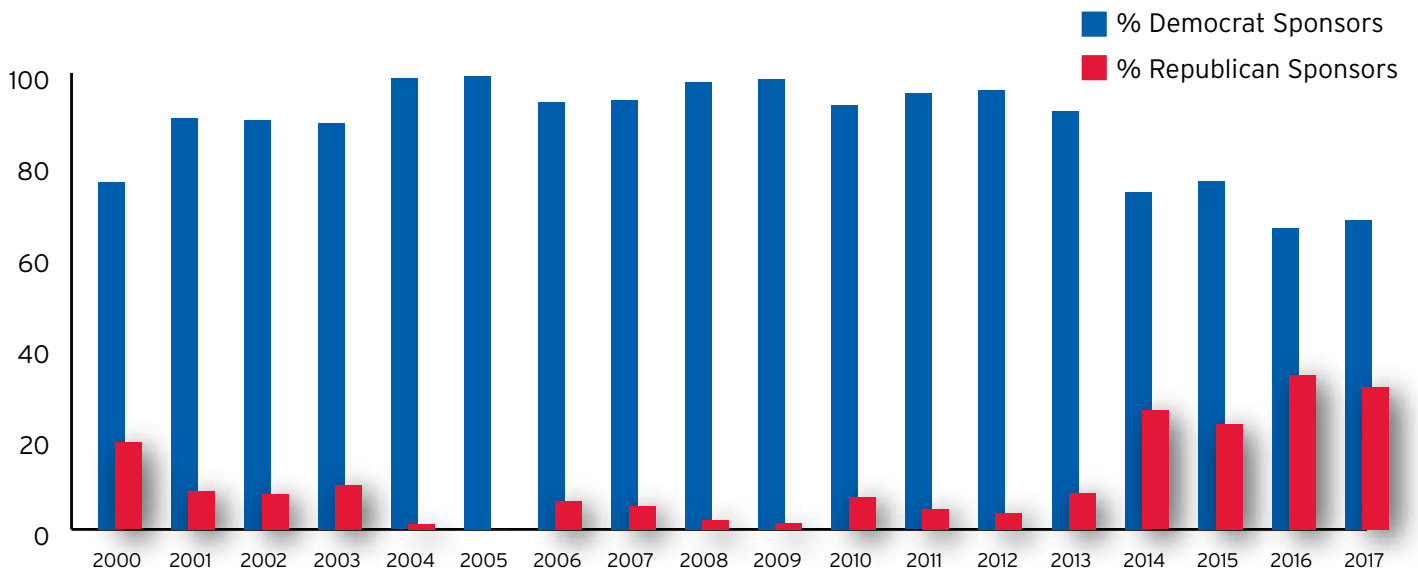


FIGURE B: PERCENT OF TOTAL SPONSORS, BY PARTY, 2000-2017



3. Republican leadership was strongest in red states.

If death penalty repeal were still a liberal issue, one might expect that the Republicans sponsoring repeal bills were all or mostly in blue states, where they faced more pressure by moderate or liberal constituents or felt safer working with Democrats. But the data show that Republicans in red states are taking on even more leadership than those in blue states.

- ◆ Among the states where Republicans sponsored death penalty repeal bills, more than 40% of them (10 states) were red states.
- ◆ Of the total number of Republican sponsorships of death penalty repeal bills, more than 67% were in red states (143 red state sponsorships out of 211 total Republican sponsorships).⁹

FIGURE C: DEATH PENALTY REPEAL SPONSORS, 2000-2017

YEAR	R Sponsors	D Sponsors	Other Sponsors	Total Sponsors	%R Sponsors
2000	4	16	1	21	19.05
2001	6	64	1	71	8.45
2002	3	35	1	39	7.69
2003	8	73	1	82	9.76
2004	1	82	0	83	1.20
2005	0	155	1	156	0.00
2006	9	134	0	143	6.29
2007	6	110	1	117	5.13
2008	2	96	0	98	2.04
2009	2	144	0	146	1.37
2010	6	79	0	85	7.06
2011	8	170	0	178	4.49
2012	9	237	0	246	3.66
2013	20	232	1	253	7.91
2014	19	54	0	73	26.03
2015	38	126	1	165	23.03
2016	40	78	0	118	33.90
2017	30	65	1	96	31.25

Significant increase beginning in 2013

- ◆ The five states with the highest number of Republican sponsorships were all red states.

See Figure D.

The strong Republican leadership in red states reflects new momentum away from the death penalty in conservative states overall. In the last few years, death penalty repeal legislation in red states:

- ◆ Passed one house in Utah (2016) and Montana (2015).
- ◆ Came within one vote in a single chamber of passing in Kansas (2010).
- ◆ Passed out of committee in Louisiana (2017) and Missouri (2016).
- ◆ Passed the Nebraska legislature with Republicans as the majority of those voting to override the governor’s veto (2015).

The strong leadership of Republicans in red states reflects new momentum away from the death penalty in red states overall.

FIGURE D: DEATH PENALTY REPEAL SPONSORSHIPS IN RED/BLUE STATES*, 2000-2017

State	R Sponsorships	State	R Sponsorships
Colorado	1	Nevada	2
Connecticut	1	New Hampshire	12
Delaware	11	New Jersey	6
Illinois	6	New York	1
Indiana	2	Ohio	4
Kansas	19	Oregon	2
Kentucky	23	Pennsylvania	2
Louisiana	2	South Dakota	15
Maryland	4	Utah	2
Missouri	43	Virginia	10
Montana	13	Washington	6
Nebraska	12	Wyoming	12

	# of States	# of Sponsorships
Blue	13	64
Red	10	143
Purple	1	4

*identified as red, blue, or purple based on the outcome of the last four presidential elections

Dan Claitor Louisiana State Senator



On April 25, 2016, a Republican-sponsored bill to repeal the Louisiana death penalty sailed through the state's Senate Judiciary Committee by a vote of 6-1. This was the first time in recent memory that such a bid in the deep red state had advanced that far, and many expected the measure to pass a full Senate floor vote as well.

As the Senate was preparing to consider the bill, its companion bill in the House of Representatives was defeated in committee by just one vote. This prompted the bill's Senate sponsor to temporarily withdraw the measure until its passage in the House committee could be assured.

The legislation's Senate sponsor was conservative Republican State Senator Dan Claitor (R-Baton Rouge) who had previously served as a prosecutor in New Orleans. When asked why he championed repeal, he exclaimed, **"As a Catholic, I am compelled to act on a moral basis relative to the death penalty. Life, both at the beginning and at the end, must be my primary consideration as a Catholic legislator. I take this moral impetus seriously."**¹²

He also cited the punishment's incredibly high costs as a reason why fiscal conservatives should reconsider the death penalty. He noted, "In every case it is cheaper to incarcerate [inmates] than to kill them."¹³

Senator Claitor said he received gratifying feedback from his constituents about his effort to end the death penalty.¹⁴ This support, and the backing he garnered from so many of his Senate colleagues, means the future of the death penalty in Louisiana is tenuous, at best.



KirstenFrankly, Wikimedia Commons.CC-BY-SA-4.0

Stephen Urquhart Former Utah State Senator

The Utah Legislature surprised many by advancing a death penalty repeal bill closer to passage than any other state in 2016. The bill passed the full Senate and a House committee before Utah's 45-day legislative session came to a close. In a legislature with few Democrats, that progress required numerous Republicans to sign on. Observers predicted that the bill might have passed the House as well, had the clock not run out.

Republican State Senator Stephen Urquhart led the effort - a remarkable turnaround given that he had voted to bring back the firing squad in Utah just the year before.

Conversations with a friend on the death penalty, though, had changed Urquhart's mind. **He came to recognize "the difference between the death penalty in reality and the death penalty in theory."**¹⁵ In reality, the death penalty imposes an immense cost on the state and forces many victims' families to endure decades of trials and appeals.

Urquhart was skeptical of government power, so he had no reason to trust that same government with the death penalty. He found this message to be particularly persuasive with fellow conservatives: **"I ask my conservative friends what they think government...does perfectly. And they usually say, 'It doesn't do anything perfectly.' And then I ask, 'Yet we're going to give ourselves the godlike power over life and death?'"**¹⁶

Urquhart has since retired from the legislature, but Utah lawmakers and constituents continue to discuss the issue.

Colby Coash

Former Nebraska State Senator



In 2015, Nebraska became the first red state in over 40 years to repeal the death penalty. Senator Colby Coash was the primary Republican champion for repeal, working with well-known progressive lawmaker Ernie Chambers who had sponsored death penalty repeal for decades. After the repeal bill passed, Chambers recognized the key role that Coash played, saying that he “is due a tremendous amount of credit for what happened.”¹⁷

Coash says his views on the death penalty underwent a dramatic transformation. During the debate on the floor of the Nebraska Legislature, he recalled supporting the death penalty and attending an execution while he was in college.

“There was a side there [at the execution] that thought it was a party, and they had a barbecue, and they had a countdown like it was New Year’s Eve,” he said. “And on the other side of the parking lot were people who were quietly praying, trying to be a witness to life, trying to understand how their government could end a life. And I was on the wrong side of the debate that night.”¹⁸

This experience did not sit well with Coash, and he realized he had no interest in being part of those cheering death. He also came to recognize that the death penalty failed to align with his pro-life, fiscally responsible, limited government values. “Conservatives know that government is imperfect and makes mistakes,” said Coash. “My desire to protect innocent life leads me to worry about a fallible system that has the power to take a life.”¹⁹

The enormous expense of the death penalty - which Nebraska hardly used - also concerned Coash. **Given its high costs with no results, he told his colleagues that if the death penalty “were any other government program, we would have got rid of it a long time ago.”**²⁰

As Coash explained to one reporter, it was because of, not in spite of, his conservative principles that he worked to end the death penalty.²¹



Roy Brown Former Montana State Senator

When the first Conservatives Concerned about the Death Penalty (CCATDP) group officially formed in Montana, one of its advisory committee members was State Senator Roy Brown.²² A former Montana House Majority Leader and Republican Nominee for Governor, Brown was a vocal champion for repeal while serving in the State Senate, where he helped pass legislation to end the death penalty in 2009.

Brown, who is an outspoken pro-life advocate, was once a death penalty supporter. After deep reflection, he concluded that capital punishment conflicted with his values. "My philosophy about life," Brown said in a senate debate, "challenged me to come to this decision."²³

"The same principles that motivate me to oppose abortion also motivate me to oppose the death penalty," Brown later explained. "All life is valuable and the only way we can ensure an innocent person is never executed is by ending the death penalty."²⁴

Brown's death penalty views were also influenced by capital punishment's high costs, unfairness, and ineffectiveness. "I would agree that the death penalty should continue if it was less expensive in every case, if the courts treated the rich and poor equally, if it truly was a deterrent, and if everyone that was executed was guilty," Brown openly admitted.

"Unfortunately, the sad truth is most of the time it is more expensive. Most of the time the courts don't dispense justice equally. Most of the time it is not a deterrent, and sometimes, yes sometimes, [those who are convicted and sentenced to die] are innocent."²⁵

Brown has retired from politics, but he remains an active advocate for death penalty repeal. He was one of the national Conservatives Concerned about the Death Penalty's founding supporters and traveled to Washington, DC for CCATDP's launch at CPAC in 2013.

Other Shifts

Grassroots Shifts: CCATDP branches

Conservatives Concerned About The Death Penalty traces its roots to Montana. In 2010, Republican Party leaders, conservative Montana lawmakers, and local conservative activists came together to call for capital punishment's end in their state. As their ranks grew, they saw the potential to connect with national conservative leaders who were also questioning the death penalty in growing numbers.

These Montana conservatives joined forces with Equal Justice USA, a bipartisan organization seeking to end the death penalty, which was already working with a number of conservative allies. In March 2013, the national Conservatives About the Death Penalty (CCATDP) launched at CPAC - the Conservative Political Action Conference.

Since then, ten more CCATDP groups have launched or are forming around the country. Grassroots conservatives have joined with Republican Party leaders to form branches in North Carolina, Kentucky, Kansas, Virginia, Nebraska, Tennessee, Washington, Utah, Florida, and Georgia.

One of the newest is Georgia Conservatives Concerned about the Death Penalty. The Georgia group launched in January 2017, after the state led the nation in executions in 2016. At a press conference at the Georgia Capitol, prominent conservatives and libertarians from across the state called for a reexamination of Georgia's death penalty. They said the record-setting year of executions wasn't indicative of Georgians' views.

Republican State Representative Brett Harrell was one of the speakers at the press conference. He said that he wanted to ensure "that government is as efficient, effective, and small as possible," but "the government has failed to provide an efficient, effective, accurate system" with regards to the death penalty.²⁶

Other speakers at the press conference discussed the death penalty's outrageous costs, their faithful belief in redemption and the sanctity of life, and their lack of trust in the government.



Georgia State Representative Brett Harrell at the press conference for the Georgia CCATDP group

The Georgia group - like all of the CCATDP groups around the country - is creating an opportunity and a forum for a growing contingent of grassroots conservatives and Republican leaders who see the death penalty as running counter to our conservative values.

Party Shifts: Kansas Republicans Take a Stand

“There are millions of dollars spent on trials and appeals and we have nothing to show for it. There is absolutely zero utility for the tax dollars spent.”

- Kansas Republican State Representative Bill Sutton

The Kansas Republican Party removed its death penalty support from the Party's platform in 2014. Instead, the Party adopted a neutral position on executions, making it “a matter of individual conscience.”²⁷ The platform committee recommended the change, but some wondered if it was reflective of the entire party or just a fluke in a long debate full of many issues.

The question was answered in 2016 when the Kansas Republican Party revisited its platform again. A proposal for the party to adopt a pro-death penalty stance was introduced but was voted down by 90 Republicans.²⁸

A wing of the Republican Party went even further. The Kansas Republican Liberty Caucus adopted a resolution in 2014 urging an end to the death penalty. Dave Thomas, the Chairman of the Caucus, said the death penalty represents a government “power that can be abused,” and therefore the state ought not be entrusted with unnecessary authority.²⁹ The Libertarian Party of Kansas also took the same position that year.



Kansas Republican leaders announce their support for repeal in the Capitol in 2015.

The next generation of Republicans in the Sunflower State followed suit. In 2015, the Kansas Federation of College Republicans passed a resolution calling for the death penalty's repeal in Kansas.³⁰ Chairman Dalton Glasscock explained the rationale behind the vote: "We simply cannot support a policy that would endanger even one innocent life."³¹

These conservatives are having an impact on the legislative debate in Kansas. Ten Republicans sponsored legislation to end the death penalty in 2016 and eight did so in 2017.

Republican State Representative Bill Sutton explained that the death penalty is not worth the cost - especially since Kansas has not carried out an execution since 1965: "There are millions of dollars spent on trials and appeals and we have nothing to show for it. There is absolutely zero utility for the tax dollars spent."³²

Religious Shifts: Evangelicals Forsake the Death Penalty

In November 2013, more than two-dozen Evangelical leaders, including many conservatives, called for a new sentencing hearing in a Texas death penalty case.³³ Duane Buck, an African-American, was condemned to death after a witness told the jury that Buck was more likely to be dangerous in the future because of his race.

This was the first time that many leading Evangelicals spoke critically about the death penalty. It was an event that many Evangelicals would have considered unthinkable a few years earlier. Staunchly conservative Evangelical leaders such as Jay Sekulow, chief counsel for the American Center for Law and Justice, were among those pleading for a fair hearing for Buck.³⁴

A year later another impending execution caused twice as many to speak out. Fifty of America's most influential Evangelical leaders signed a letter opposing the execution of a Texas man with severe mental illness, Scott Panetti. The signatories included spiritual advisor to President Trump Rev. Samuel Rodriguez, president of the National Hispanic Christian Leadership Conference - the largest organization of Hispanic Christians in the U.S.³⁵

These first forays, along with ongoing dialogue led by CCATDP and our parent organization, Equal Justice USA, paved the way for Evangelical organizations to revisit their death penalty views. In March 2015, the National Latino Evangelical Coalition (NaLEC) became the first national Evangelical association to formally oppose the death penalty. The NaLEC

"We simply cannot support a policy that would endanger even one innocent life."

***- Dalton Glasscock,
Chairman, Kansas
Federation of College
Republicans***

More than fifty of America's most influential Evangelical leaders signed a letter opposing the execution of a Texas man with severe mental illness, Scott Panetti.

It would have been difficult a decade ago to find many Evangelicals openly questioning the death penalty. Today, they are standing up in ever growing numbers.

board voted unanimously to adopt the measure, citing racial bias and their pro-life beliefs as key factors.³⁶

Six months later, in October 2015, the nation's largest Evangelical group, the National Association of Evangelicals (NAE), changed its 40-year-old pro-death penalty stance to one of neutrality. The new position acknowledges the death penalty's flaws as well as a growing opposition to it among Evangelicals. The resolution gives the green light for its 45,000 member churches to reconsider and debate their views on the death penalty.³⁷

Evangelical institutions such as Wheaton College³⁸ and Calvin College³⁹ have hosted major death penalty educational events, as have faith communities like the largest mega-church in Florida, Northland Church.⁴⁰ The Christian Community Development Association (CCDA) has started engaging in critical discussions about the death penalty at its annual conference.⁴¹ Evangelical state lawmakers are increasingly sponsoring death penalty repeal legislation too.

It would have been difficult a decade ago to find many Evangelicals openly questioning the death penalty. Today, they are standing up in ever growing numbers.



A group of Evangelicals form a prayer circle after a discussion about the death penalty at the annual CCDA conference.

Conclusion

The death penalty is dying in the United States, and Republicans are contributing to its demise. In 2016, there were 20 executions and 31 death sentences, down from highs of 98 executions and 315 death sentences in the 1990s.⁴² A surge of Republican lawmakers have sponsored death penalty repeal bills since 2013, symbolizing a shift in conservative attitudes that extends far beyond the statehouse. CCATDP didn't lobby most of these lawmakers to sponsor repeal bills. Rather, CCATDP's 2013 launch and subsequent expansion have shined a spotlight on conservative opposition to the death penalty, creating opportunities for people to learn and consider the conservative case against the death penalty for the first time. Lawmaker activity is a reflection of this growing trend and provides an accessible and straightforward data set to demonstrate the larger point.

The death penalty's egregious flaws - the risk of executing an innocent person, arbitrariness and bias, high costs, a lack of deterrence, and the impact on victims' families - make it impossible to square this policy with conservative values. Conservatives from the grassroots to statehouses are taking note and leading the way towards better policies that don't include executions.

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