

Colorado abolishes the death penalty



Gov. Jared Polis also commuted the death sentences of the state's three death-in-prison without parole

By **John Herrick** - March 23, 2020



Colorado Capitol early on May 10, 2018 after adjournment. Gov. Jared Polis signed into law a bill to end the death penalty in Colorado. (Photo by John Herrick)



Gov. Jared Polis on Monday signed into a law a bill that ends the death penalty in Colorado for any convict 2020.

Polis also commuted the sentences of the three men on death row: Robert Ray and Sir Mario Owens, both guilty in the 2004 murder of Javad Marshall-Fields and his fiancée, Vivian Wolfe, before Marshall-Fields was in a murder trial, and Nathan Dunlap, who killed four people at a Chuck E. Cheese in 1993. All three will no longer live in prison without the possibility of parole.

The governor's clemency **orders**, which reference the three men by their Department of Corrections ID nu

name, was in part based on Colorado's new law repealing capital punishment.

"The commutations of these despicable and guilty individuals are consistent with the abolition of the death penalty in Colorado," Polis said.

But Polis also recognized that the death penalty reflects a long-standing bias in the criminal justice system that punishes people of color. There are 539 convicts in Colorado who could have been sentenced to death, had they been. All three are black men. All went to Overland High in Aurora. And all were prosecuted in the 1980s, currently represented by District Attorney George Brauchler.

Monday's order, Polis said, is "consistent with the recognition that the death penalty cannot be, and never was, equitable in the State of Colorado."

He added, "While I understand that some victims agree with my decision and others disagree, I hope this brings some peace and certainty for them moving forward. The decision to commute these sentences was made to reflect what was done and done after a thorough outreach process to the victims and their families."



Sen. Julie Gonzales, a Democrat from Denver, speaks in support of abolishing the death penalty on the Senate floor on Jan. 30, 2020. Gov. Jared Polis signed the bill to repeal the death penalty on March 23, 2020. (Photo by John Herrick)

This year marked lawmakers' sixth attempt to repeal the death penalty in a fight that has stretched on for more than a decade. The [debate in the state Senate](#), perhaps the largest hurdle to repealing the death penalty, was emotional and divisive. Sen. Fields, a Democrat from Aurora whose son, Javad Marshall-Fields, Owens and Ray were convicted of killing

proponent of the death penalty. During the hours-long debate in the Senate, she held a photo of her son as a repeal bill to be voted down.

Fields was not available for comment this afternoon. But in a tweet Monday afternoon, she said Polis, with “hijacks justice and undermines our criminal justice system.”

In the House, [Republican lawmakers recounted stories of gruesome murders](#) as if to test the moral conviction of those who wanted to end capital punishment in Colorado.

But the bill cleared both chambers this year, mostly along party lines. And now, with the governor’s signature, Colorado joins states and the District of Columbia that have also abolished the death penalty either through legislation or executive order. The last execution was that of Gary Lee Davis, a convicted murderer and rapist, in 1997.

The bill signing was closed to the press corps and public as COVID-19 cases continue to rise and the governor has increased social distancing in order to help slow the spread of the potentially deadly disease.

But for [defense lawyers who have long fought to save their clients from capital punishment in Colorado](#), the news arrived on their phones and computers came as long-awaited comfort, nonetheless.

“We are supremely relieved,” said Jim Castle, an attorney who is representing Owens. He added, “Now is a relief.”

Madeline Cohen, a defense lawyer for Dunlap said, “Governor Polis has finally brought about a just and fair resolution after a quarter century of legal proceedings in this case.”

And Mary Claire Mulligan, an attorney who represents Ray, said, “Governor Polis’s clemency grant recognizing Robert’s case is characterized by many, if not all, the reasons that led the Colorado Legislature to repeal the death penalty. Robert was just 19 at the time of crime for which he was sentenced. He was an African-American teenage boy. His trial and sentencing were rife with prosecutorial misconduct.”

Polis has granted clemency to eleven people – six commutations and five pardons. Former Gov. John Hickenlooper granted 18 commutations during his eight years in office. Hickenlooper granted Dunlap a temporary reprieve from the death penalty, punting to Polis, his successor, the decision about his fate.

“I am under no illusion that this Executive Order gives all of the victims what they want or need, but I hope they find some comfort in knowing that a final decision has been made regarding Offender No. 89148’s sentence,” Polis said.

“I also hope that the victims find some peace and will finally be freed from the public attention that has followed this personal tragedy over and over.”

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