



CALIFORNIA 2016
BALLOT BACKGROUNDER

Proposition **62**

Death Penalty Abolition

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Purpose

Proposition 62 would abolish the death penalty in California.

Note: Proposition 66 would retain the death penalty and reform the state's death penalty appeals process to reduce delays. If voters approve both Proposition 62 and Proposition 66, the measure with the larger affirmative vote will prevail.

Background

Capital punishment has a long and contentious history in California. The state first authorized executions in 1851 and regularly enforced this penalty for many decades. Beginning in the 1970s, however, a series of judicial decisions restricted capital punishment in the state.¹ In 1972, the California Supreme Court ruled that the death penalty violated the California Constitution's prohibition on cruel or unusual punishment.² The people of California quickly overturned that decision, however, by adopting a state constitutional amendment to allow capital punishment.³ Meanwhile, the U.S. Supreme Court issued decisions in the 1970s that forced California and other states to revise their death penalty statutes.⁴

¹ http://www.cdcr.ca.gov/Capital_Punishment/history_of_capital_punishment.html

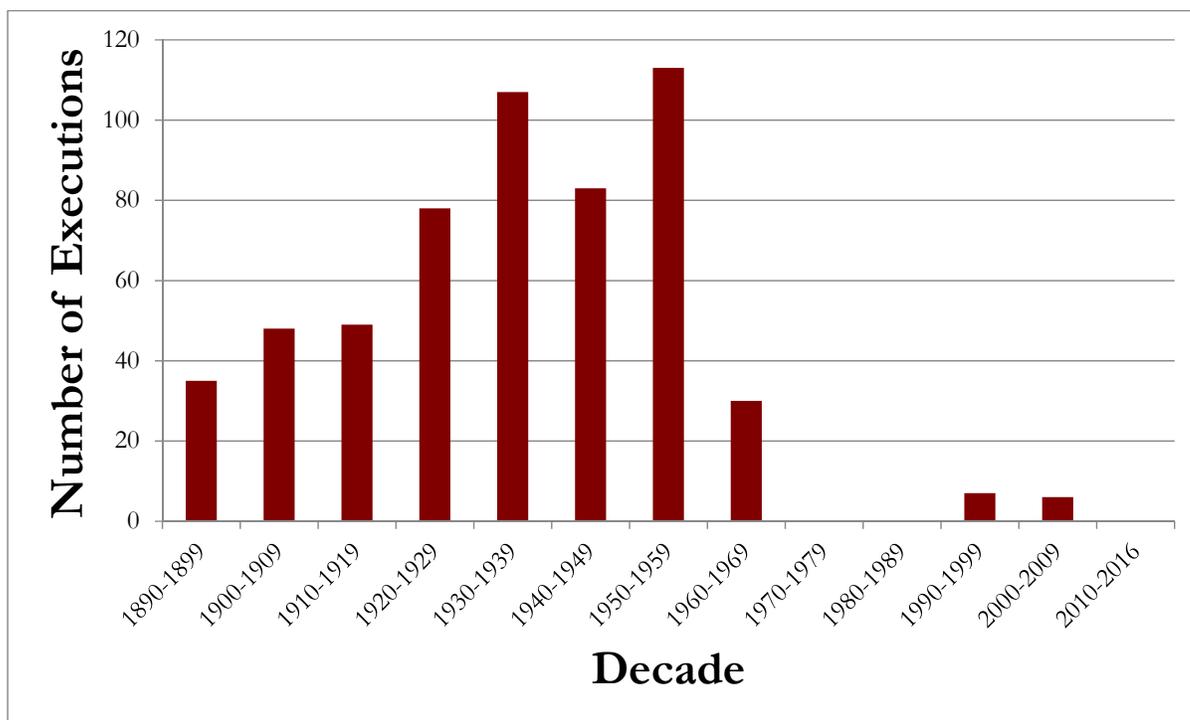
² *People v. Anderson* (1972).

³ California Proposition 17 of 1972.

⁴ *E.g., Furman v. Georgia* (1972), *Gregg v. Georgia* (1976).

PROPOSITION 62—DEATH PENALTY ABOLITION

In November 1978, Californians adopted Proposition 7, a measure that reestablished the death penalty, and juries again began sentencing prisoners to death.⁵ Ongoing resistance in the courts, however, has prevented most executions in the state. California executed no prisoners from 1978 until 1992, 13 from 1992 to 2006, and none since 2006.⁶ For the past decade, the state's administration of the death penalty has been blocked court challenges to the state's methods of execution, among other issues. Meanwhile, the number of prisoners on death row now exceeds 700.⁷



Source: California Department of Corrections and Rehabilitation

Because California's capital punishment system was adopted through a voter-approved initiative (Proposition 7 of 1978), abolishing the death penalty requires a vote of the people.⁸ Proposition 62 is the second attempt in four years to repeal capital punishment in the state through a ballot initiative. In 2012, voters defeated a similar measure, Proposition 34, by four percentage points.⁹

⁵ http://www.cdcr.ca.gov/Capital_Punishment/history_of_capital_punishment.html

⁶ http://www.cdcr.ca.gov/Capital_Punishment/Inmates_Executed.html

⁷ http://www.cdcr.ca.gov/Capital_Punishment/docs/CondemnedInmateSummary.pdf?pdf=Condemned-Inmates

⁸ http://www.cdcr.ca.gov/Capital_Punishment/history_of_capital_punishment.html

⁹ [https://ballotpedia.org/California_Proposition_34,_the_End_the_Death_Penalty_Initiative_\(2012\)](https://ballotpedia.org/California_Proposition_34,_the_End_the_Death_Penalty_Initiative_(2012))

Existing Law

Under current California law, the death penalty is the maximum criminal punishment and is available only for a limited number of crimes. The California Supreme Court automatically reviews every death sentence and the court has the ability to affirm both the conviction and the death sentence, to affirm the conviction but reverse the death sentence, or reverse the conviction and death sentence. If the California Supreme Court reverses the death penalty but affirms the conviction, a retrial of the penalty phase must occur.¹⁰ Moreover, if the California Supreme Court reverses the death penalty and the conviction, then an entirely new trial must occur. In addition, if the California Supreme Court affirms *both* the death penalty sentence and the conviction, the inmate still has the ability to file appeals on other constitutional issues. He or she also is able to have appeals heard at the state or the federal court level and can introduce new evidence not presented at trial. Death penalty appeals typically involve many years of litigation.¹¹

From 1937 to 1993, lethal gas was the mandated form of execution. In 1993, California law changed to allow inmates sentenced to death to choose whether execution through lethal gas or through lethal injection. The state's method of execution remains contested.¹²

Proposed New Law

Proposition 62 would replace the death penalty with the lesser punishment of life imprisonment without the possibility of parole (LWOP) and also would apply retroactively to those previously sentenced to death. Prop. 62 also would require those convicted of life imprisonment without the possibility of parole to work while in prison and to pay 60% of their earned wages to victim restitution fines or orders against them.¹³

Fiscal Impact

The Legislative Analyst estimates Proposition 62 would reduce net spending for state and local governments by \$150 million annually.¹⁴

¹⁰ http://www.cdcr.ca.gov/Capital_Punishment/history_of_capital_punishment.html

¹¹ http://www.cdcr.ca.gov/Capital_Punishment/history_of_capital_punishment.html

¹² Ibid.

¹³ [https://ballotpedia.org/California_Death_Penalty_Repeal,_Proposition_62_\(2016\)](https://ballotpedia.org/California_Death_Penalty_Repeal,_Proposition_62_(2016))

¹⁴ Ibid.

Supporters

Prop. 62 supporters include:

- Lieutenant Governor Gavin Newsom
- Congresswoman Loretta Sanchez
- Actor and activist Mike Farrell
- Ron Briggs, former El Dorado County supervisor
- Reed Hastings, Netflix chairman and chief executive
- Don Heller, author of California’s 1978 Death Penalty Law
- Former President Jimmy Carter and Former First Lady Rosalynn Carter
- California Democratic Party¹⁵

Arguments of Supporters

- The death penalty unequally affects certain races.¹⁶
- The death penalty is fiscally unsound, as California has spent \$5 billion in order to execute 13 people since 1978. Abolishing the death penalty would save the state money.¹⁷
- No one has been executed in ten years in California due to the many problems with the death penalty.
- Capital punishment risks executing innocent persons.
- Abolishing capital punishment would save the state money.¹⁸

Opponents

Prop. 62 opponents include:

- 32 district attorneys and 28 county sheriffs
- Marc Klaas, father of murder victim Polly Klaas
- Mike Durant, President of Peace Officers Research Association of California
- Former Governors George Deukmejian and Pete Wilson
- California Republican Party¹⁹

¹⁵ <http://yeson62.com/endorsements/>; <http://www.cadem.org/vote/2016-ballot-initiatives>

¹⁶ <http://www.latimes.com/politics/essential/la-pol-sac-essential-politics-updates-newsom-endorses-proposition-to-abolish-1468966153-htmllstory.html>

¹⁷ Ibid.

¹⁸ [https://ballotpedia.org/California_Proposition_62,_Repeal_of_the_Death_Penalty_\(2016\)](https://ballotpedia.org/California_Proposition_62,_Repeal_of_the_Death_Penalty_(2016))

¹⁹ <http://noprop62yesprop66.com/endorsements/supporters/>
<http://noprop62yesprop66.com/ballot-arguments/no-on-prop-62-primary-argument-against/>
https://www.cagop.org/ballot_measure_endorsements

Arguments of Opponents

- Society should be able to punish the most heinous crimes with the death penalty.
- Abolition of the death penalty would jeopardize public safety.
- Abolition of the death penalty would prevent justice for victims' families.
- Estimates that abolishing the death penalty would save costs are contestable; a former state finance director estimates that abolishing the death penalty would actually increase state costs.
- California should “mend, not end” the death penalty; instead of adopting Proposition 62, voters should adopt Prop 66, which would expedite the death penalty and limit appeals.²⁰

Conclusion

Voting Yes on Proposition 62 would abolish the death penalty in California and replace capital punishment with life imprisonment without the possibility of parole.

Voting No on Proposition 62 would retain the death penalty in California, and those on death row would retain their current sentence.

For more information on Proposition 62, visit:

www.roseinstitute.org

www.yeson62.com

www.noprop62yesprop66.com

²⁰ <http://noprop62yesprop66.com/ballot-arguments/no-on-prop-62-primary-argument-against/>;
<http://sacramento.cbslocal.com/2016/07/07/california-voters-will-decide-on-repealing-death-penalty-or-speeding-up-process/>