



## OPINION: Death penalty If Nebraska lacks the will to enforce it, why not end the grandstanding?

Editorial Board  
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When Nebraska politicians want to toss red meat to conservative supporters, they play the tough-on-crime card.

On Tuesday, Gov. Pete Ricketts vowed that even with Nebraska prisons bulging at the bars he has no intention of pursuing solutions that might get any angry, uninformed voters riled up. Attorney General Doug Peterson piled on, holding a press conference to criticize a couple of bills that would modify habitual-criminal statutes and cap the ability of judges to impose long sentences.

“Nebraskans tell me that they want to see an approach to reform that is tough on criminals,” Ricketts wrote in a press release. “Some of the proposed policies under consideration in the Legislature, however, are out of step with the desire of Nebraskans to be tough on crime. ...As I have said before, I will veto any attempt to repeal the death penalty here in our state. This proposal is the wrong direction and would soften our state’s approach to dealing with criminals.”

After the last administration’s corrections fiasco, the Legislature should require no lectures about jeopardizing public safety. So playing politics at a time when state senators

are struggling with difficult decisions about how to deal with prison overcrowding isn’t especially helpful. That’s even more so in the case of capital punishment. A 2013 report by the ACLU, which opposes the death penalty, found that capital punishment cases take twice as long to litigate and involve five times as many appeals.

No doubt, most Nebraskans support capital punishment. Republican governors and attorney generals have been mining that political ore for years, along with conservative legislators. But they’ve been far more effective at incendiary grandstanding than forging a fair and effective method of carrying it out. In the long history of Nebraska, only 37 murderers have been executed, including just three since 1976. Until 1920, murderers were hanged. That gave way to the electric chair, which was banned by the state Supreme Court in 2008. After that, Nebraska joined other states in adopting lethal injection. The excuse now is that the state can’t obtain the drugs necessary to carry out an execution. That’s left capital punishment in Nebraska in limbo since December 2013, when the state’s supply of sodium thiopental expired.

Yet aging pets are put down every day with effective and humane lethal injections. Hard-liners on social media note that there's no shortage of rope. One state senator recently suggested using firing squads, but that was regarded more as political wind-bagging than a serious proposal. Nebraska has never used a firing squad to carry out an execution.

Meanwhile, a handful of determined death penalty opponents have been successful in blocking even the scheduling of an execution. Nebraska hasn't carried one out since 1997. That suggests that proponents are far more adept at exploiting capital punishment as a political issue than in mustering the will to make it work — even with public opinion, state statute and political power on their side.

The Nebraska Legislature is about to debate a proposal that would repeal the death penalty and replace it with life imprisonment without possibility of parole, which is closer to modern political reality than any chance of state executives actually carrying out an execution in the foreseeable future. Eleven senators have joined longtime death penalty foe Ernie Chambers of Omaha as co-sponsors of the repeal measure, Legislative Bill 268. The Nebraska Legislature Judiciary Committee recently voted unanimously in favor of it. Yet it's unlikely to get much of a hearing, because opponents have littered it with amendments in an effort to run out the clock on any hopes of passing it during this year's session.

But recently, even conservative Republicans are questioning the political sense of clinging to a toothless, costly policy that experts say has little effect on deterring crime. The sermonizing by Ricketts and Peterson was likely triggered by Nebraska Conservatives Concerned About the Death

Penalty, a group that called Tuesday for support of LB 268.

“Capital punishment is at odds with our core conservative values,” said Sen. Colby Coash of Lincoln, one of the leaders of the group. “As conservatives, we are committed to fiscal responsibility, limited government, and valuing life, and the death penalty goes against every one of them.”

If present law was working, we'd agree that the death penalty statute and the will of the public ought to overrule the frustrating obstructionism of opponents. But it's impossible to argue that the death penalty is applied fairly in every Nebraska murder case. Only 11 killers are on Death Row, and one of them has been there for 35 years. Yet outside on the streets, the slaughter goes on unabated. Omaha alone had 33 homicides in 2014.

The fact is, Nebraska doesn't execute murderers. Its most powerful politicians lack the political will to back up their bluster. If capital punishment is never enforced, why keep it on the books?