

**History**

In 1846 while they were revising their state laws, the Michigan legislature passed a law abolishing capital punishment for murder. Several attempts have been made over the years to reinstate the death penalty. In 1929 Michigan's legislature did pass a death penalty bill, but it was vetoed by the governor. That same year it was passed again, with a referendum provision, which was defeated by a popular vote of 352,000 to 269,000. After several more attempts, in 1963 the people voted to adopt a new state constitution which included the provision "No law shall be enacted providing for the penalty of death." It took effect on January 1<sup>st</sup>, 1964. In order for the death penalty to be allowed in Michigan the state constitution must be amended. (In order for an amendment to the Michigan Constitution to pass it must pass in the House and Senate and be sent to a popular vote of the people.) Because of the randomness of sentencing in death penalty cases, in 1972 the US Supreme Court determined in a 5-4 vote that capital punishment was unconstitutional on the grounds of being cruel and unusual punishment. This led to the US Supreme Court providing in 1976 basic guidelines for framing constitutional death penalty laws. The death penalty would be considered constitutional if 1) guilt and punishment were decided separately, 2) aggravating and mitigating factors were statutorily mandated and considered, and 3) there was an appellate review of the process. The Supreme Court in 1989 determined executing "mentally retarded" people not to be prohibited under the Eighth Amendment, nor would the imposition of the death penalty on someone for a crime committed while 16 or 17 years old be considered cruel or unusual punishment. As of December 1998, 38 states have instituted the death penalty under the Supreme Court's guidelines. Michigan is not one of those states.

**Note**

A Joint Resolution, if passed, must be brought to a vote by the people of Michigan because amendments to the Constitution need to be approved by the people. For LEAD's purposes, we are framing the debate so that if the legislature passes a joint resolution, the Constitution will be considered amended.

**Summary**

This bill would amend the Michigan constitution to allow capital punishment for first degree murder. Crimes that fall under first degree murder are premeditated murder ("murder perpetrated by means of poison, lying in wait, or any other willful, deliberate, and premeditated killing"), felony murder (murder "committed in the perpetration of, or attempt to perpetrate, arson, criminal sexual conduct in the first, second, or third degree, child abuse in the first degree, a major controlled substance offense, robbery, breaking and entering of a dwelling, home invasion in the first or second degree, larceny of any kind, extortion, or kidnaping"), and the murder of a peace officer (including a corrections officer) committed while the peace officer is lawfully engaged in the performance of his or her duties.