

Mass. House defeats proposal to restore death penalty

By **Stephanie Ebbert** Globe Staff, April 23, 2013, 1:03 p.m.

The Massachusetts House of Representatives today swiftly beat back a proposal to reinstate the death penalty in Massachusetts through an amendment to the state budget that's now being debated on Beacon Hill.

State Representative James R. Miceli, a Wilmington Democrat, had filed the death penalty amendment before the bombing at the Boston Marathon last Monday. However, he cited the turbulent events of last week as evidence of the need for heightened protections for law enforcement personnel.

"We spent a week applauding the police. All of those police who responded did an outstanding job and they deserve every bit of support," Miceli said on the House floor. "I'm asking you to put your money where your mouth is. This bill protects them."

But state Representative Eugene L. O'Flaherty, a Chelsea Democrat, called for an alternative amendment that would leave the death penalty bill to the Judiciary Committee, which is also due to consider it. He also called for a full study of the legislation's impact on the judicial system and cost before it could go into effect. O'Flaherty's amendment overwhelmingly prevailed in the House.

"We can have a discussion about this at a later time," said O'Flaherty. "In the context of this budget, when we're debating the fiscal machinery and how it operates in this state, I don't think it's necessarily ... appropriate."

Lawmakers had tried to seize on the emotion surrounding last week's Boston Marathon attacks, which killed three and injured 282 near the finish line. The police who responded and pursued the suspects in a lengthy manhunt were on the firing line in the

days that followed, when the suspects are believed to have engaged in a shootout with police.

[Federal charges](#) brought Monday against the surviving suspect, Dzhokhar Tsarnaev, cover only the Marathon bombings, not the confrontations with police. And while state officials could bring additional charges for the shooting death of [MIT police Officer Sean Collier](#) and the shooting of MBTA Officer Richard Donohue Jr., state charges would not carry a potential death penalty.

“What if he were not going to be federally charged?” Representative Shaunna O’Connell, a Taunton Republican, said at a morning press conference. “In Massachusetts, there would be no death penalty for him.”

Miceli’s amendment would have created a death penalty for those with at least two prior state and federal convictions who murder a police officer, special police officer, parole or probation officer, court officer, sheriff’s department employee, or corrections officer. It also called for the death penalty in cases of terrorism, killing sprees, or torture.

Representative Daniel B. Winslow, one of three Republicans running in the special election for the US Senate, had helped to draft the bill when he was legal counsel in former governor Mitt Romney’s administration.

Romney had introduced the measure in 2005, claiming it would set the “gold standard” for capital punishment cases since it aimed to provide safeguards against wrongful convictions, including verifiable scientific evidence such as DNA for sentencing.

“We have the option on the federal side. We should have the same option on the state side for the same reasons,” Winslow said at a morning press conference.

But the measure went down to defeat in the Democratic-led Legislature in 2005, despite Romney’s assurances that it would be foolproof, and has been rebuffed by the Legislature

in more recent attempts.

Some legislators said today on the House floor that they did not want to respond to a terrible incident at the Marathon with a “knee-jerk reaction” on the death penalty.

“We all share the same compassion for the victims, the anger for the people that brought this tragedy on this state” said Representative Sheila Harrington, a Groton Republican.

However, as someone who considers herself “pro-life,” Harrington said she would not support a measure she considers “pro-death” no matter how foolproof evidence is purported to be.

“We now know that that scientific evidence may not always be 100 percent correct,” she said, “and what we are holding in the balance is someone’s life.”

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